

## COUNCIL MEETING

SEPTEMBER 26, 2018

The Council Meeting of the Council of the County of Kaua'i was called to order by Council Chair Mel Rapozo at the Council Chambers, 4396 Rice Street, Suite 201, Lihu'e, Kaua'i, on Wednesday, September 26, 2018 at 8:40 a.m., after which the following Members answered the call of the roll:

Honorable Arthur Brun

Honorable Mason K. Chock (*excused at 2:06 p.m. to 2:33 p.m.*)

Honorable Ross Kagawa (*not present from 11:30 a.m. to 2:06 p.m. and 3:13 p.m. to 3:14 p.m.*)

Honorable Arryl Kaneshiro

Honorable Derek S.K. Kawakami

Honorable JoAnn A. Yukimura

Honorable Mel Rapozo

### APPROVAL OF AGENDA.

Councilmember Kagawa moved for approval of the agenda as circulated, seconded by Councilmember Yukimura.

Council Chair Rapozo: Just for your information, our first item today will be C 2018-207, which is our pension briefing from the Grassroot Institute of Hawai'i. Before that, we have an Executive Session today, which is ES-967, and what I will do is suspend the rules before we get into the agenda because Mr. Ridgley wanted to testify, but cannot stay all day. So we will take his testimony and resume with the agenda. Any other discussion on the agenda?

The motion for approval of the agenda as circulated was then put, and unanimously carried.

Council Chair Rapozo: Next item, please.

### MINUTES of the following meeting of the Council:

August 22, 2018 Council Meeting

Councilmember Chock moved to approve the Minutes as circulated, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion for approval of the Minutes as circulated was then put, and unanimously carried.

Council Chair Rapozo: Let us go to the Consent Calendar and then we will take some items out of order.

JADE K. FOUNTAIN-TANIGAWA, County Clerk: Sure.

CONSENT CALENDAR:

C 2018-204 Communication (09/05/2018) from the Acting County Engineer, transmitting for Council consideration, a Resolution Authorizing The Mayor Or The Director Of Finance Of The County Of Kaua'i To Enter Into An Intergovernmental Agreement With The State Of Hawai'i, Department Of Health For A Loan From The State Water Pollution Control Revolving Fund For The Wailua Sewage Pump Station (SPS) No. 1 Rehabilitation, Project No. C150055-11.

C 2018-205 Communication (09/05/2018) from the Acting County Engineer, transmitting for Council consideration, a Resolution Authorizing The Mayor Or The Director Of Finance Of The County Of Kaua'i To Enter Into An Intergovernmental Agreement With The State Of Hawai'i, Department Of Health For A Loan From The State Water Pollution Control Revolving Fund For The Hanamā'ulu And Kapaia Sewer Pump Stations' (SPS) Renovations, Project No. C150059-23.

Councilmember Kagawa moved to receive C 2018-204 and C 2018-205 for the record, seconded by Councilmember Kaneshiro.

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to receive C 2018-204 and C 2018-205 for the record was then put, and unanimously carried.

Council Chair Rapozo: As I stated, we are going to take ES-967. Jade, can you go ahead and read that? Then we will take the testimony.

There being no objections, ES-967 was taken out of order.

EXECUTIVE SESSION:

ES-967 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kaua'i County Charter Section 3.07(E), the Office of the County Attorney, on behalf of the Kaua'i County Council, requests an Executive Session with the Council, to provide Council with a briefing regarding a claim filed by Roger Ridgley, Jr., and related matters. This briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Council Chair Rapozo: At this time, if there is no objection, I will suspend the rules. Mr. Ridgley, you wanted to come up and testify. I am not sure if you folks saw this claim. It came in a while ago and it is involving a tree branch that damaged Mr. Ridgley's vehicle. I will let him explain the rest.

There being no objections, the rules were suspended.

ROGER RIDGLEY, JR.: Hi, my name is Roger Ridgley, Jr. Back in December, I was going down Route 581, Kamalu Road, and there is a *hau* bush branch hanging over the road. Everybody has pictures of it; it went to the Council once before. I went to the Department of Transportation and filled out the forms, and that is the State building, so the State sent me a letter back saying that it is not their responsibility; it is the County's responsibility. Therefore, I applied for the papers from the County Council and to the County for the paperwork to put the insurance claim in for that. The damage to my truck is one thousand four hundred fourteen dollars and nine cents (\$1,414.09). I get a letter back from the County saying that they are not responsible and that the owner is responsible. Well, the *hau* bush is three (3) feet from the road, so I do not understand how the owner would be responsible for that when the tree is three (3) feet from the edge of the road and it is hanging over ten (10) feet in the road. This has been going on for a year now and I keep getting bounced back and forth between who is responsible. My question to the County Council is, is it not the County's responsibility to keep the roadway safe for both vehicles and pedestrians? I need to get an answer here because this is my truck that I use every day and I have pictures of just within a mile's range of trees hanging over the road and I have pictures of trees that were cut down by the County. If that is the case and the County is cutting these trees down, then why is the County not held responsible for this *hau* bush that I ran into? For me to avoid that *hau* bush and some of the trees that are on the roads, I have to veer in the other lane and that is taking my responsibility and chance of hitting another vehicle. So I need to get an answer to my question on who is going to pay for the damage to my truck. I have a thing from the owner of the property, paperwork from the property owner, where she has called the Kaua'i Island Utility Cooperative (KIUC) to have KIUC come out and cut the *hau* bush because the electrical wires are going through the *hau* bush and she cannot cut it because she is afraid that the *hau* bush will come down on the electrical wires. She also sent a letter to the County asking the County to help them out with that, too. But the tree has been cut by the County after I hit it. If the County is cutting the tree, I think the County is responsible for the safety of the roadway.

Council Chair Rapozo: Just for your information, we will be going into Executive Session later with the attorney so that we can get briefed and I am hoping that the Department of Public Works (DPW) will be here as well. I just had a question, as far as the area that you are saying, the tree was three (3) feet from the road, right?

Mr. Ridgley: Yes.

Council Chair Rapozo: You said that the County cut trees?

Mr. Ridgley: They cut the tree because they had to. The trucks that are going by there are whacking the tree. It was really low.

Council Chair Rapozo: Right. The County was the ones...

Mr. Ridgley: To cut the tree down, yes. As far as I know, yes.

Council Chair Rapozo: Yes, just make sure DPW is here for whenever we get into Executive Session. Any other questions? Councilmember Kagawa.

Councilmember Kagawa: You have asked a bunch of questions and we are on the legislative side. The Administration under the Mayor, I would hope would give you a little bit more answers directly to some of the questions you have had. If they are going to deny it, at least provide some of those answers. Have you been provided with those?

Mr. Ridgley: Well, they tell me that it is not the County's responsibility and that it is owner's responsibility.

Councilmember Kagawa: Okay.

Mr. Ridgley: But I was under the impression that fifteen (15) feet from the road edge is...we cannot do anything on it because it is an easement for the County.

Councilmember Kagawa: Yes.

Mr. Ridgley: This is three (3) feet from the edge of the road.

Councilmember Kagawa: Have they provided an answer to that question?

Mr. Ridgley: No, I have been getting the runaround and going back and forth. They just keep telling me that I have to go after the owner.

Councilmember Kagawa: For me, if we are going to deny it, I would hope that...we can answer all of the questions as best as we can. For me, the County not answering the second part that you were saying...I thought the County should maintain within fifteen (15) feet and "why you are not doing it"—I would hope that we would have an answer to that kind of question, especially when we are going to be denying it. I am just letting you know how I feel as far as the complaints that you have raised.

Mr. Ridgley: The problem, too, is that everybody is passing the buck down and nobody wants to take the responsibility.

Councilmember Kagawa: I have problems with that. Like I said, I think legitimate questions should be answered.

Mr. Ridgley: Thank you.

Council Chair Rapozo: Any other questions for Mr. Ridgley? I do not know how much we can discuss in the open, which is why it is in Executive Session.

We can definitely find out what we can. Like Councilmember Kagawa said, I think you should be given an explanation. We have submitted a bill over...Mauna Kea, I do not know if you want to come up, but I sent over a bill that would allow us to go cut those trees and bill the landowner. I am not sure where we are at on that, Mauna Kea. I know that we sent it over to your office for review.

MAUNA KEA TRASK, County Attorney: For the record, Mauna Kea Trask. It is being reviewed currently.

Council Chair Rapozo: That is one outcome, but my concern, and again, I do not want to get into too much of the detail out here because it is a claim, but it is quite clear that if we are cutting the trees, then I would assume that we should be at least partly liable. That is just my opinion.

Mr. Trask: Just to be clear, it is a pending claim.

Council Chair Rapozo: So it has not been denied?

Mr. Trask: No. I am not quite sure what letters Mr. Ridgley is talking about. Are you talking about letters from the Department of Public Works or something like that?

Mr. Ridgley: No, it was sent from the County...I have it here...

Mr. Trask: Anyway, the point being is that the claim is still pending review at the Office of the County Attorney. We have not denied the claim, we are vetting these issues. We are going to get a dissertation on rural tree law along County highways in the back and it is kind of complex. Mr. Ridgley's claim has not been denied yet.

Council Chair Rapozo: Okay.

Mr. Trask: Or not to say that it will be, but it is pending.

Council Chair Rapozo: Okay. That is the person who you are going to be working with right there.

Mr. Ridgley: Okay. Because the other two (2) people that were out...I met them out there to show them where the *hau* bush was and they said, "Well, you have to go after the owner. We are not going to pay for it."

Council Chair Rapozo: We are trying to remedy that, like I said, with a bill or a law where we would be able to go and cut the tree and send the owner the bill, which is how it should be. Any other questions for Mr. Ridgley? Seeing none, thank you very much.

Mr. Ridgley: Thank you for your time. Have a good day.

Council Chair Rapozo: Any other public testimony on this matter? If not, I will call the meeting back to order. Councilmember Kagawa.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: I just wanted to make a comment that I think it is very difficult for the County Attorneys sometimes because we have legitimate claims and we have a lot of frivolous claims. It seems like the movies, but sometimes we may have a tendency to deny at the outset, and then see if the claimant still wants to pursue. I think some of this is kind of like the movies, but it is because for a lot of the initial ones, we have a feeling that a lot of them are frivolous. It is a tough job for the County Attorneys. Like I said, I think our job is if we are going to deny, let us answer legitimate questions all the way to the end and I am sure that Mauna Kea is behind that type of responsibility. Thank you.

Council Chair Rapozo: Thank you. Any other comments? If not, we will move this to later in the agenda when we get into Executive Session. Can we have C 2018-207, please?

There being no objections, C 2018-207 was taken out of order.

#### COMMUNICATIONS:

C 2018-207 Communication (08/16/2018) from Council Chair Rapozo, requesting the presence of Joe Kent, Vice President of Research from the Grassroot Institute of Hawai'i, to provide a briefing on the Grassroot Institute of Hawai'i's report titled "How to Resolve Hawai'i's Public Pension Debt Crisis" and any findings or recommendations specific to the County of Kaua'i: Councilmember Kaneshiro moved to receive C 2018-207 for the record, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. With that, thank you for being here today. I understand you did a presentation; was that on Maui?

There being no objections, the rules were suspended.

JOE KENT, Vice President of Research from the Grassroot Institute of Hawai'i: I have done a few presentations for small groups around, not on Maui yet.

Council Chair Rapozo: Okay. Can you state your name for the record and for our captioner? You can go ahead with your presentation.

Mr. Kent: Sure. Thank you. My name is Joe Kent. I am the Vice President of Research at the Grassroot Institute of Hawai'i. Thank you so much for this opportunity to present to you today. The Grassroot Institute is a "nonprofit think-tank" working to advance individual liberty, economic freedom, and accountable government. So we just try to educate the public and lawmakers about good government issues. We serve as an independent watchdog. We do not take any money from the government, political parties, the military, or the university and we do not work for any clients. We just take money from individuals who care about educating the public about accountability issues. Today, we are talking about the public pension system, which is in a crisis right now because of the huge debt that we

keep hearing about. As for me personally, I was a public school teacher for eight (8) years. I taught on Maui in Lahaina. I kept hearing about this debt crisis in my retirement system and I wanted to learn more about it. So I did a lot of research and I joined the Grassroot Institute and came up with this report, which I think you all have today. That makes me a member of the public pension system, so I kind of have a vested interest in figuring out how to resolve this. I understand that you folks heard from Tom Williams earlier this year. He is the Director of the Employee Retirement System (ERS). The Grassroot Institute works a lot with Tom Williams in vetting our work. We are good friends with him and the ERS as well. But we are going to give some different things that he may not have thought about today.

The ERS, if you do not know, serves about one hundred twenty thousand (120,000) employees across the State, which is about nine percent (9%) of the population of the State. All of these State and County government workers get a retirement plan and they contribute money from their paychecks into the ERS, and when they retire, they are promised a benefit from the investments from the fund. So it works if the fund is full, but the fund is half empty, as you can see. We are missing about twelve billion nine hundred million dollars (\$12,900,000,000) of money from the fund. We have fifteen billion dollars (\$15,000,000,000) in the fund right now, but because that money is missing, it represents an unfunded liability. So you could say for every dollar that we owe to retirees in the State, we only have about fifty-five cents (\$0.55). That is severely underfunded. If we were fully-funded, if we had all twenty-eight billion dollars (\$28,000,000,000) that we are promising to our State and County employees, then we could just take the investment earnings off the top of the fund every year and just use that to pay for the retirements. But because we have this unfunded liability, the taxpayers have to keep bailing the fund out every year, and as you know, the counties have to pay higher and higher required contributions; you pour it into the fund every year and that is going up because the unfunded liability is going up. This is a big problem. That puts Hawai'i at about forty-fifth in the nation when it comes to pension plans. You can see that we are down there with Colorado, Connecticut, Illinois, Kentucky, and New Jersey. We are in the bottom quartile of funded pension plans. So the situation is very serious. You might ask, "Okay, does the Employee Retirement System care about this? Are they worried? Do they stay up at night trying to figure out how to solve this?" It turns out that they do; they are very concerned about this. In fact, they have implemented a number of reforms.

You might wonder, why did the crisis get so bad? This is the unfunded liability over time. You can see that in 2001, there was barely any unfunded liability at all. The reason that the unfunded liability happens partly is because lawmakers at the legislature would skim off the top of the fund's investment earnings every year. They had this practice for about thirty (30) years. Whenever the fund had more than calculated investment earnings, they would skim off the top of that and use it for other things and not make contributions to the fund. That works during the boom, but during the "Dot-Com Crash," that set off the unfunded liability, which today has grown to enormous levels. Again, twelve billion nine hundred million dollars (\$12,900,000,000). Also, Hawai'i uses a defined benefit plan calculation, which says that it promises you a benefit based on how many years you have worked, what your salary is and so on, with no regard to how much money is actually in the system. This creates a system where there is more money going out than coming in and that adds to the debt as well. The ERS was worried about this problem and you

can see here in 2016 the projection for the unfunded liability was going to go up to thirty billion dollars (\$30,000,000,000). So this was a huge crisis, but luckily, the ERS solved the problem in 2017, and you can see here now that the unfunded liability is solved, seemingly. It looks like in the year 2043, you have that to look forward to. The unfunded liability will be completely paid off, according to the ERS.

So now how did they do that? Well, the way they did that is they required higher and higher taxpayer contributions from the counties, the State, and from public employees. This could be said to be basically passing the crisis to the counties, because now it is the counties' responsibility to pay for these higher contributions that are required. This is money that could be paid to homelessness issues, housing, or environmental issues and so on, and it is being diverted to pay off this debt.

Nonetheless, the crisis is solved. If you ask anyone at the ERS, they will say that there is no crisis and that the crisis is solved, as we can see. But that is only if we assume a seven percent (7%) investment return rate. If the investment return is less, if it is six percent (6%) or five percent (5%), then the unfunded liability grows. Here is a projection with a five percent (5%) investment return. You can see that it grows to almost thirty billion dollars (\$30,000,000,000). If there is a big crash...let us say the market tanks negative twenty percent (-20%), followed by five percent (5%) returns every year afterwards, then we grow it to forty billion dollars (\$40,000,000,000) by the year 2047. Although it seems like the crisis is solved, we are at a big risk if investments are less than expected. If you look at the history of the Employee Retirement System returns, from the beginning of the fund in 1926, the returns were about seven percent (7%). But lately, returns on the market have been getting less and less. If you look at returns from about the year 2000, the average is about five percent (5%). It is getting harder and harder to make easier, higher investment returns. You used to be able to make a seven percent (7%) return with just nothing but bonds back in the '90s, but now you have to diversify your portfolio and that invites more risk. This was a problem, and again, the way that the ERS and the legislature have chosen to solve this is to require more tax contributions. So you can see that the County of Kaua'i last year paid about fifteen million dollars (\$15,000,000) to pay off the debt, but those contributions are rising as a percentage of pay. You can see in 2021 that you are going to be having to pay at least twenty-three million dollars (\$23,000,000). This is actually an underestimate and it does not even account the salary increases that will likely be every year, about three percent (3%) to four percent (4%). So this is a big cost, and again, this is money that could be used for other things.

You can see here that the County of Kaua'i shares a bigger load for this pension debt as a percentage of its operating budget. You can see that the County of Kaua'i has about a seven point six percent (7.6%) of its budget dedicated to these payments, at least this year and that is more than the rest of the State and counties. That is because your County apparently must have higher salaries than the other counties, for whatever reason. The pension calculation is the same for every government entity, so I am not sure why that is. We actually do have a lot of data about the Kaua'i County salaries, overtime, and so on. So if you want that, I can provide that for you as well.

We looked across the nation for best practices to try to solve this problem and one best practice that we found in looking at all fifty (50) states is that pension reform



should apply to all employees. Right now, if you have a conversation about pension reform, the conversation in Hawai'i at least gets shut down and it gets shut down by people who rightly say that our State Constitution owes pension benefits and we cannot cut any pension benefits. Here in the Constitution, it says that "accrued benefits from the Employee Retirement System shall not be diminished or impaired." So that means if you try to do a pension reform, let us say you alter benefits or you adjust the plan or mechanism in some way, it can only happen for new hires. That is why every time they suggest some kind of pension reform, they only do it for new hires. In 2012, they significantly adjusted the pension formula, but only for new hires, so it is going to be years and years down the road until we see those results of those reforms. I wanted to check on this though because if we are not allowed to change, alter, or reform the system for current workers, then that is a big problem. I went down to the State Legislature to the State Archives and I looked up the Hawai'i Constitutional Debates of 1950 and it turns out that there was a big question about this in 1950 and they actually clarified this point. You can see here that they issued a statement at the time that said, "The legislature could reduce benefits for new entrance into the system or for persons already in the system insofar as their future services were concerned." For example, let us say I was a fireman for the County and I worked for thirty (30) years and there was some pension reform that was suggested—you could not touch my thirty (30) years that I worked for the County. That is mandated by the Constitution, it is protected. But according to this, you could actually change all future years of service moving forward and that is a big deal because many county workers will spike their pensions towards the end of their retirement. So there may be many workers who have yet to spike their pensions and if there was some kind of freeze on pension spiking that were implemented today, that could mitigate against future unfunded liability risk. So this is a best practice and it is something that could be done in Hawai'i. I do not know if people are aware of this provision.

I mentioned pension spiking and this is a real example: here is a police officer in Hawai'i who made sixty-eight thousand dollars (\$68,000) a year and he spiked his pension to over one hundred thirty-three thousand dollars (\$133,000) with overtime and other pay and the way the pension calculation works is you multiply it by how many years you worked and a multiplier, and this police officer actually got a ninety-nine thousand dollar (\$99,000) a year pension. So this is how to spike your pension, you just get a lot of overtime. There is nothing wrong with overtime, actually, as it could be a necessary and useful tool in many cases. The problem is that overtime is included in the pension calculation and as long as you include it, then that creates this long-term problem and a long-term debt. I have talked to policemen and firemen who are uncomfortable with getting the overtime calculated into their pension. They have this moral quandary about it because they are adding to the debt. At the same time, they are getting this benefit. So if we just removed it from the calculation, you could just give overtime as needed.

So this in Kaua'i, you can see I have put here the top Kaua'i overtime earners. Kaua'i actually has...let us see...the police officers on Kaua'i make higher salaries on average than police officers in all other counties in the Aloha State. You can see that the overtime here is significant. All of these police officers and firemen have gotten overtime pay over thirty thousand dollars (\$30,000) a year and with other pay combined, you can almost double your pay for the year. If you do that for three (3) or five (5) years in a row, then that can calculate into your pension. There is really no

way to know whether or not this overtime was justified, so that is up to you as the Council to figure out. From where I am standing, there is no way to know what is justified and what is not. I can provide more of these numbers for you if desired. Statewide, you can see the numbers. Kaua'i County contributes some to the pension spiking costs, but you can see the rest of the State also does it, too. So we all need to work together to try to solve this problem.

When we looked across the nation at all fifty (50) state plans, we found that another best practice is to have different types of retirement plans, to offer different types. In Hawai'i, we only one (1) type of retirement plan called the "Defined Benefit Plan," which I have talked about before. Basically, it promises you a benefit, money going out without talking about the money going in. So now you have more money going out than is coming in and that creates this debt. Interestingly, there are actually two (2) states that have Defined Benefit Plans that work, I found. They are South Dakota and Wisconsin. They both have Defined Benefit Plans that actually work. They have somehow tooled it and figured out mechanisms to make it work. In Hawai'i, we could do that, too. I am happy to talk about those mechanisms if you want. You can find them in the report as well. Another type of plan is the "Defined Contribution Plan." That says, first, we are going to say, "How much money do you have in this system? Then we are going to say, "Based on that, what can we afford to offer you as a pension benefit?" That matches the money going in with the money going out and so it solves all of the unfunded liability problems. The other plans are kind of hybrids of all of these. You take a Defined Benefit Plan and you take a Defined Contribution Plan, you put them together, and you can call it a "Hybrid Plan," a "Cash-Balance Plan," or a "Choice-Based Plan." They are all different types of the same "ice cream," I guess.

I can go through more of these details if you have more questions, but basically, I just wanted to run through that there are solutions that exist. Many of the solutions would have to be done at the State Legislature. I know that the counties offer recommendations for different legislation, but there are a few things that the County of Kaua'i can look into: number one, the Kaua'i County should provide overtime as needed, but clamp down on any overtime abuse that is occurring. Again, from my position, I am unable to say what abuse is and what is not, but perhaps you folks can suss that out. Another thing to consider is that on Kaua'i, with the union negotiations, you only get one (1) person in Kaua'i who sits at that negotiation table, which is the Mayor. No one from the Council, I believe, can sit at that table. Maybe that is something that needs to be changed so you have a say in what you have to pay. Finally, public-private partnerships are a way that many governments across the nation and counties across the nation have used to pair-down on expensive costs and we have a report about that as well. I am happy to take any questions that you have. Thank you.

Council Chair Rapozo:  
Kaneshiro.

Thank you very much. Councilmember

Councilmember Kaneshiro: Thank you for the presentation. I have a question; are all the other counties and state paying their full contribution into the system?

Mr. Kent: Yes. At present, they are all paying what they are supposed to be paying into the system.

Councilmember Kaneshiro: Okay. Thanks.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: Thank you so much for this presentation because we need to know what solutions there are, because right now, we are sort of driving down to a cliff that is in the future. On your slide 7, where you said that theoretically, the State solved the problem—well, they reduced the time to get to full funding from sixty (60) years to thirty (30) years, right?

Mr. Kent: That is right.

Councilmember Yukimura: But the assumption is a seven percent (7%) investment return, and that, as you pointed out, is unrealistic and that the actual performance has been three point five percent (3.5%).

Mr. Kent: Yes, the actual performance has been...if you look from the year 2000, the actual performance has been about five percent (5%) every year. If you look from the beginning of the plan, it has been about seven percent (7%). So investments seem to be going down. It is hard to use history as an indicator of future investment predictions, but it does put us at risk though if we assume that seven percent (7%) and we get less than that.

Councilmember Yukimura: So a more conservative, possibly more realistic...hard to say, but an assumption would be the better way to plan?

Mr. Kent: Yes, there have been many institutions. I know the Reason Foundation nationally has suggested that lowering the assumed rate of return, as you say, would be prudent. If you lower it and you are wrong, then that is okay. But if it is too high and you are wrong, then that is a problem.

Councilmember Yukimura: However, if you lower it to be more conservative, that means higher payments. If the only solution is higher annual payments, as you pointed out, then we are taking away from present needs such as housing, traffic management, education, and those at the State-level.

Mr. Kent: Absolutely. So that is the contradiction is that even though you are trying to be good and have lower assumptions, you would have to pay higher tax contributions in the short-term, rather than the long-term. But that is exactly right.

Councilmember Yukimura: But that is because for thirty (30) years, if we go to the cause of the problem, for thirty (30) years, we took the surplus returns and instead of keeping them for the bad years, we used them so we could get reelected.

Mr. Kent: That is right. That problem was solved in 2006, but you are right.

Councilmember Yukimura: It was solved only in 2006?

Mr. Kent: No, from 2006 on. So they are no longer allowed to skim anymore.

Councilmember Yukimura: So what were the years that the skimming occurred?

Mr. Kent: I am not sure off the top of my head, but it happened for approximately thirty-two (32) years, I am told by the ERS, until 2006.

Councilmember Yukimura: Okay. That is why you are saying that we need to look at other solutions besides just a lower projected rate of return or lower assumed rate of return and higher payments, which take away from present needs.

Mr. Kent: Yes, the hard part is that all the unfunded liability...there is no way to chip away at the unfunded liabilities that we have presently. The only thing that we can do is to mitigate against future unfunded liabilities, which is a very realistic scenario, especially on Kaua'i where you folks had a hurricane disaster recently, and I am sure that the overtime...which was rightly deserved...but the fact that the overtime is calculated into the pension, I would predict that it will hike the unfunded liability statewide. Hawai'i Island had a volcano boom as well and that boomed overtime, if you will, as well for that island, too. That causes more and more unfunded liabilities every year.

Councilmember Yukimura: So right now, we are in a situation where we do not pay off our credit card every month; is that analogous?

Mr. Kent: Yes. We are paying off the credit card so far every year...

Councilmember Yukimura: Only since a certain...

Mr. Kent: ...and those credit card payments are getting bigger and bigger as we go.

Councilmember Yukimura: Okay. I will let others ask questions.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you for the presentation. I appreciate it. With slide 11, I just wanted to confirm...you spoke about the percentage of operating budget and ours is the highest at seven point six (7.6). Do you believe that is due to the overtime?

Mr. Kent: Yes, I do. I believe it is because of the overtime. Correct me if I am wrong, but I believe the Police and Fire are statewide unions, so they all get paid on the same rate. So it is not the salaries, it would have to be the overtime or other pay that is the difference.

Councilmember Chock: That is the only variable. Okay.

Councilmember Kaneshiro: I have a follow-up. Could it not be that just our operating costs are lower and we are not spending as much as the other counties on roads or other general fund items, so our salaries are a lot higher? If they are doing a lot more spending in their County, then their percentage...

Mr. Kent: That is a good point. You could have a different make-up of employees who have higher salaries here as a base level. That is true, too.

Councilmember Yukimura: I have a follow-up.

Council Chair Rapozo: Hang on. You have said in your presentation that our County employees on Kaua'i are the highest paid in the State, right?

Mr. Kent: In the State, yes. If you look at the Comprehensive Annual Financial Reports (CAFRs) and you compare them county-by-county, Kaua'i does have the highest average salaries.

Council Chair Rapozo: Councilmember Chock, do you have a question on that same topic?

Councilmember Chock: It is a separate question.

Council Chair Rapozo: Okay. Councilmember Brun.

Councilmember Brun: I have a separate question.

Council Chair Rapozo: Okay. Councilmember Yukimura.

Councilmember Yukimura: Could the reason that we have the highest percentage not be that we have a lower tax base, a smaller population?

Mr. Kent: Well, it is an average per person.

Councilmember Yukimura: What is an average per person?

Mr. Kent: Police officers on Kaua'i make higher salaries on average than police officers in all other counties, so it is an average.

Councilmember Yukimura: That is a very interesting factor that I would like to pursue, but just in terms of number 11 where the annual required contribution is the highest of our operating budget and I know our Budget & Finance Committee Chair is saying that is it not because we have a lower operating budget.

Mr. Kent: Right.

Councilmember Yukimura: But we have a lower operating budget because we have a smaller tax base.

Mr. Kent: So in other words, you might have more County employees compared to your tax base?

Councilmember Yukimura: Correct.

Mr. Kent: I have not looked at that, but that may be.

Councilmember Yukimura: That is why it would be really interesting to see how you figure out that our employees are the highest paid.

Mr. Kent: Right. I have a report on that that I can give you.

Councilmember Yukimura: Okay, that would be helpful.

Mr. Kent: Yes.

Councilmember Kaneshiro: For me, I am interested to see that report, because for me, when I look at our entire budget, we have been cutting costs so much in our budget that as you cut costs, then your salary or fixed cost, which are like salaries, become a higher percentage, so I am wondering if it is not so much that the employees are getting paid more, but just that we have been cutting our budget so much that salaries is a higher percentage of our budget than other counties.

Mr. Kent: I am just going to speculate that sometimes when you cut positions, then you need overtime in order to fill that gap, and then you are kind of circular in a way. But that is just a speculation. I do not know.

Councilmember Kaneshiro: If we went and just increased our spending on operations, then our employee cost percentage would also go down. If we said, "Let us fix up more parks and do more stuff out of the general fund," then our salary cost would reduce.

Council Chair Rapozo: It is one or the other. It is either our operating budget is less which that is why the costs is higher or the other way.

Mr. Kent: Yes.

Council Chair Rapozo: When we compare the different islands, we have to really be careful because it is totally different operations. We did not cut positions; we cut expenses. Also, look at the size of the Kaua'i Police Department (KPD) versus Honolulu or Maui—you have ten (10) people covering the island on Kaua'i. Ten (10) people occupy that little block in Honolulu, so the overtime expense obviously for Kaua'i is going to be higher because we do not have the manpower.

Mr. Kent: Right.

Council Chair Rapozo: So it is real difficult to compare. I am more interested in what Councilmember Kaneshiro is getting at, what is the true cause? Is it really the fact that our operating budget is lower in comparison per capita?

Councilmember Kaneshiro: Yes, I could see police salaries being higher here because I think we are like eighteen (18) positions low for police, so obviously that needs to be made up with overtime costs. So per employee, they are going to have overtime costs because they are covering all of these open positions, but I guess there is a lot variables to look at on it.

Council Chair Rapozo: But the fact remains that we are in trouble with the ERS.

Mr. Kent: Yes.

Council Chair Rapozo: A lot of what you said is consistent with what the ERS Director said. He talked about pretty much everything that you talked about and I am sure he is kind of restricted to what he can and cannot say. I think you two are pretty much in-line with the problems that we are going to face very shortly. The seven percent (7%) is a nice number. Again, it is relative because you could take any period of time that you want to and say average return was twelve percent (12%). Eight percent (8%) in any given day and you could have a twenty percent (20%) increase and the next day you have a loss. I am not an economist, so I am not sure a financial guy that can determine what that number should be, but seven percent (7%) seems quite high when we are considering the problems that if we do not hit it, the cost for the State. Councilmember Kagawa.

Mr. Kent: Right.

Councilmember Kagawa: I know we went over this slide before, but can we just blow this up a little bit?

Council Chair Rapozo: Which one is that?

Councilmember Kagawa: Page 10. We are talking about pension spiking, which is preventable. Overtime is preventable. You just deny overtime and you do more with less. It happens all of the time in private business. It happens in sports and in football; you have less good players, they will play both ways. It is preventable. By allowing overtime when you have a sixty-eight thousand dollar (\$68,000)...go to the previous slide...page 10, but slide 19.

Mr. Kent: Okay.

Councilmember Kagawa: When you have a regular salary at sixty-eight thousand dollars (\$68,000) and you are allowed to have fifty-two thousand dollars (\$52,000) in overtime, I think...that is a good slide right there...I have been criticized in social media by firefighters who say that I pick on them, but look at that. The Fire Captain is making fifty-six thousand dollars (\$56,000) and forty-six thousand dollars (\$46,000) in overtime—what is the justification? They will say, “We have emergencies so that is why we have overtime,” but what are you getting paid when you are shopping at Costco with the crew and there is no call-out? That should go in the bank. You did nothing that day and then when you get call-out, it should come out to regular...it is your regular job. You are an emergency responder. But when you have day where you do not do anything, the whole twenty-four (24) hours,

that should go in the bank as saying, "When I get a call-out, I will use that day I did nothing." But we allow this to happen. Look at the page. It is concerning for me. We have fire captains making fifty-six thousand dollars (\$56,000)...wait, the regular pay is more than fifty-six thousand dollars (\$56,000) for a fire captain...

Mr. Kent: This is because when we request the information from Hawai'i County, they give us a range.

Councilmember Kagawa: Okay. I am just saying that forty-one thousand dollars (\$41,000), fifty-six thousand dollars (\$56,000), and forty-six thousand dollars (\$46,000) is preventative to me and you are pointing it out as a problem because it hurts taxpayers for the rest of their life after they retire. I think we just need a really aggressive part in management to say, "Hey, fifty-two thousand dollars (\$52,000) a year of overtime is obnoxious." Maybe twelve thousand dollars (\$12,000) a year is okay because they are in public safety. By saving that forty thousand dollars (\$40,000) over the life of this guy, this is big, big bucks when you are talking about controlling the whole department.

Mr. Kent: There is a contradiction here. The people who are in charge of fixing the problem of divorcing the overtime from the pension calculation, that is the legislature, but the legislature does not pay for Police or Fire employees. So it is only the counties that can bring this issue up with the legislature. Overtime by itself is not the problem; the only problem is that it is married to the pension calculation and that creates a long-term problem.

Councilmember Kagawa: You were a teacher, right?

Mr. Kent: Yes.

Councilmember Kagawa: Are teachers allowed to collect overtime?

Mr. Kent: No.

Councilmember Kagawa: Public school teachers do not get overtime. When we have Individualized Education Programs (IEPs) or what have you, we work a lot of overtime. We get zero. Another branch of government workers, they collect for every single minute of overtime that they can. To me, it can be controlled; maybe the powers do not want to control it and the people are paying these obnoxious "high-threes" because we just say, "You know what, counties, just pay." I am tired of it. I proposed the most aggressive cuts in the history of this Council here and I cannot get support and I hope in the future I will, because we have to control this for the future; not for me. I am done pretty soon...I will retire myself pretty soon. This is for the kids. We have to do more. You have pointed it out and I thank you for coming here because this is serious stuff. We are going to go bankrupt.

Council Chair Rapozo: You brought up the fact that the legislature really controls this and the collective bargaining discussions/negotiations. The counties, I believe this was the last session, put in our package that we wanted to have a seat at the table, a council representative, even without a vote. We just wanted to get in the door so that we could understand what is being discussed and of course the legislature said, "No." This is a very "closed" group, the negotiation group, and



we do not have that opportunity. It comes up every year when we do budgets or when we do collective bargaining negotiations...not negotiations, but when we have to adopt the packages. All of the county employee unions get the highest pay increases. The divisions or the departments that the State have to pay gets the teeniest. So the Hawai'i Government Employees Association (HGEA)—small; the United Public Workers (UPW)—small. Police and Fire—big. I am not complaining, I am just saying that the State is very free with the money. All I am suggesting is that have them pay the state employee unions the same percentage of increase; I think it would be a different story.

Mr. Kent: Yes.

Council Chair Rapozo: Councilmember Yukimura.

*(Council Chair Rapozo relinquished chairmanship to Council Vice Chair Kagawa; and was noted as not present.)*

Councilmember Yukimura: Could we have the chart back up again, please? What we are saying is that it would take the average...you take the Fire Captain that Councilmember Kagawa chose...so between fifty-six thousand dollars (\$56,000) and one hundred nine thousand dollars (\$109,000), what is the middle of that? Seventy thousand dollars (\$70,000)?

Mr. Kent: Sure, seventy thousand dollars (\$70,000) to eighty thousand dollars (\$80,000).

Councilmember Yukimura: Say they have an annual salary of eighty thousand dollars (\$80,000)—with overtime pay and other pay, because there is premium pay and that is the other way that they increase their salaries, all of these different pieces; it is sixty-eight thousand dollars (\$68,000), so it is eighty thousand dollars (\$80,000) plus sixty-eight thousand dollars (\$68,000) is their annual compensation.

Mr. Kent: For that year.

Councilmember Yukimura: For that year, yes. So that is about one hundred fifty thousand dollars (\$150,000) essentially annual compensation and that is used to calculate in the pension, except for the few new people who came onboard since...when was it?

Mr. Kent: Since 2012.

Councilmember Yukimura: So you are really creating a cost of “haves and have nots,” because there are people who are getting more than adequately compensated and then there are others who are in a much more restricted kind of pension. Then, we have this ever-increasing liability which we have to pay ever-increasing amounts from our operating budget. Would you not say that then causes things like this constitutional amendment, because the teachers are not getting what they need from the operating budget, so they are looking for other places for funding? It just causes all kinds of distortions in the budgetary process.

- Mr. Kent: Yes.
- Councilmember Yukimura: I want to go back to some...
- Councilmember Kagawa: No, keep going. We have Councilmember Chock and Councilmember Kaneshiro who have questions as well.
- Councilmember Yukimura: Did you have follow-up to my questions? I am shifting now.
- Councilmember Kagawa: Any follow-ups? If not, Councilmember Brun.
- Councilmember Brun: On slide 10, that Board of Water Supply is just Kaua'i?
- Mr. Kent: Slide 10 or page 10? Okay, go ahead.
- Councilmember Brun: The Board of Water Supply is just for Kaua'i?
- Mr. Kent: No, I believe that is the State Board of Water Supply.
- Councilmember Yukimura: There is no State Board of Water Supply.
- Mr. Kent: Oh.
- Councilmember Yukimura: Is that City & County?
- Councilmember Brun: Is that every county put together?
- Mr. Kent: I cannot say. It could be Honolulu. I do not know...these are the numbers they gave me, so I am not sure.
- Councilmember Kagawa: I think it is all of the county water boards put together, according to our budget staff. They said that our County Board of Water Supply is not in our regular county budget.
- Mr. Kent: Thank you.
- Councilmember Kagawa: So it must be the whole State.
- Mr. Kent: These are the numbers that I am given.
- Councilmember Kagawa: Correction, that might just be Kaua'i's. Honolulu's maybe embedded in their budget. I am not sure on that one.
- Councilmember Brun: Thank you.
- Councilmember Yukimura: I have a follow-up on that. In your slide 21, you showed the City & County Board of Water Supply and the Hawai'i County Board of Water Supply, but not Maui and Kaua'i. I was wondering why.

Mr. Kent: These are the numbers that I am given from the ERS. I can ask them and get back to you.

Councilmember Yukimura: Yes, because I think we would be interested in Kaua'i's water board figures.

Mr. Kent: Sure.

Councilmember Yukimura: Thank you.

Councilmember Kagawa: Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. You mentioned Article 16, Section 2, and future services and then it shall not be diminished or impaired. So have you had a legal review on this section? I am curious to understand, because you are having this discussion statewide with other counties at the State-level, if there is movement in this direction.

Mr. Kent: I think that no one is really aware of it and I did talk to the ERS Director about this and I have talked to different counties about this...Maui County...no one has really heard of this before. So either it would have to be like a law review, like you said, or a legal challenge brought to the State, or someone could just pass a law that froze all overtime calculations into pensions, just pass the law and see what happens. This question needs to be answered about whether or not future benefits can be changed for current members for their future services.

Councilmember Chock: Did you get an estimate based on what kind of savings and where it would put us in the existing...

Mr. Kent: Unfortunately no. That would require an actuarial calculation. It needs to be done though.

Councilmember Chock: Thank you.

Councilmember Kagawa: Councilmember Kaneshiro.

*(Council Chair Rapozo was noted as present.)*

Councilmember Kaneshiro: I have a question on slide 21. As far as our lump sum payments for spiking, do you think it is fair that we have to pay a lump sum when the person retires? Would it not be fairer if we paid whatever the difference is over the life of their retirement?

Mr. Kent: Yes, this is just the spiking cost for those that retired in 2017. But presumably, these costs would continue year-after-year because it is their pension, so their pension stays at a certain level and keeps going. It is a bigger number actually than we think because it is every year.

Councilmember Kaneshiro: So the lump sum is just to get us...when I look at it, someone retires today and then we need to infuse a whole bunch of money to cover their pension; I would think for us, it would be fairer if our pension increased by whatever that small increase is that they are going to be collecting throughout the year...I think we do it by employee and it comes in like forty thousand dollars (\$40,000) for an employee that we need to infuse today. I think it would be fairer to the County if we paid what they would be getting paid for the year. It would be a much smaller number, but that is just something to think of.

Mr. Kent: Yes, interesting.

Councilmember Kaneshiro: Even for us to think about. We are paying this lump sum number today.

Councilmember Kagawa: Councilmember Kawakami. Then I will turn it back over to you, Chair.

*(Council Vice Chair Kagawa returned chairmanship back to Council Chair Rapozo.)*

Councilmember Kawakami: Thank you for the presentation. In 2011 and 2012, I was actually at the legislature representing the 14<sup>th</sup> District. We did a few things, very unpopular things that year: we reduced the amount of benefits to employees, we doubled the years for an employee to be vested from five (5) to ten (10), and we increased the age of retirement from age fifty-five (55) to sixty (60)—all to sort of address this pension issue that we have. The other thing that we did is we made an attempt to prevent workers from accruing benefits from overtime, bonuses, lump sum salary, and allowances. So if the employer is going to allow pension spiking, then the employer is going to be required to make that payment and I think that is where that lump sum issue pops up, and that was put in to create some sort of fiscal discipline that, “Hey, if the County is going to allow pension spiking, here is the immediate ramifications,” and we are seeing it, right? That forty thousand dollar (\$40,000) lump sum payment. So those things were created by the legislature to start creating that fiscal discipline, but clearly, have you been seeing any type of positive movement? Have you tracked data as far as from 2012 until now if pension spiking has indeed gone down or gone up? What has the result of that been?

Mr. Kent: I do not have it here with me. I think pension spiking has gone done moderately in the past five (5) years or so. We have an article about that on our website. That is from memory. What you were saying about the reforms in 2011 and 2012, those were definitely reforms that needed to happen and I am glad that you helped with that. The reforms also need to be talked about for current workers for future services as well. The reforms unfortunately create a less desirable plan as well. Let us say that you are a new hire and you work for the State for nine (9) years, and you decide to leave for another employment, you would not be able to take your pension with you because you would not be vested. All of the contributions made by the State on your behalf would be forgone by you as an employee and because of the ten-year vesting requirement. The lower benefits mean that younger people are paying for the unfunded liabilities of the older folks, but the younger folks are getting a lesser benefit. So unfortunately, it is the young who are paying for the old in this system.

Councilmember Kawakami: That is a hard thing to do because the discussion did come up on whether we do pension reform retroactively for past workers and it became a conversation that these were promises made to some of the workers that took a lower salary for better benefits, better healthcare, and now that we are on fixed incomes, “how dare we go back and adjust their lifestyle and pull the rug out from their feet” when we made these type of...I guess it is...a Defined Benefit Plan is basically a promise that you are making to employees...

Mr. Kent: Right.

Councilmember Kawakami: Which leads me to my next question—so in your report, you covered “Defined Benefit,” which all states have and we have a Defined Benefit Plan.

Mr. Kent: Yes.

Councilmember Kawakami: Then you talk about a Defined Contribution Plan—is that more like a 401K or the more that I put in, and whether I say I want to go and invest aggressively and take the risk and get the higher return or the higher loss, or I am going to play very conservative and just over the course of the years, I am controlling my own destiny—that is a typical 401K program where you do not have any unfunded liabilities, because the more that I put in, it is like a savings account and the risk that I choose to take is going to define my own destiny.

Mr. Kent: Right.

Councilmember Kawakami: Are there any states that have Defined Contribution Plans more like the 401K?

Mr. Kent: Yes. There are actually two (2) states that have...I think Alaska and...let us see...what is the other one here...there are actually two (2) states that have done that and they just say that the 401K plan or the Defined Contribution Plan is the main plan now. Again, it only applies to all new workers. It does not apply to old workers. I can look up that other state for you if you want. Here it is...I apologize, I have to get that for you.

Councilmember Kawakami: You did clarify that from 2006, the legislature was prohibited from skimming off of the ERS investments, right?

Mr. Kent: That is correct.

Councilmember Kawakami: Thank you.

Council Chair Rapozo: Yvette, can you put up slide 14? I am just curious with this language because this is the first time...I will be honest...I did not know about this language and it was never brought up even by the guy from the ERS, but has this been challenged by anyone?

Mr. Kent: No.

Council Chair Rapozo: Is there any challenge to this statement?

Mr. Kent: No. We brought it up with Maui County and the ERS. I do not think they had seen this before. It needs to be challenged in order to figure out a solution here. There are a few ways to challenge it, but one way is to just pass a law and see what happens.

Council Chair Rapozo: I think the right way to challenge it is this anti-spiking law going forward.

Mr. Kent: Right.

Council Chair Rapozo: I think that would be the easiest way to challenge it. It is pretty clear here that as long as you do not touch what has been earned, anti-spiking to me is very detrimental. The spiking is very detrimental to the ERS process and our liabilities. I do not think the legislature would do this. I do not think they have the political...

Mr. Kent: "Will"?

Council Chair Rapozo: Yes, but that would be the right way to do it is start off with their existing anti-spiking bill and just amend it to impact employees going forward.

Mr. Kent: That is right.

Council Chair Rapozo: I do not see it as a problem. I think that would be the way to go. That would be a good start to test the language. Councilmember Kawakami.

Councilmember Kawakami: That can be done because in essence, that is what we did in 2011 and 2012 is basically saying that all employees hired after June 30, 2012, all of those broad-sweeping changes were going to apply. So the anti-spiking pension absolutely can move forward to new employees, but I do not think it is going to apply to anybody that is hired as we speak.

Council Chair Rapozo: Yes, that is what I am suggesting that that would be a challenge. You have to wait a whole generation to see the real benefit. You have to wait, in some cases, thirty (30) years. Some employees work forty (40) years.

Mr. Kent: Right.

Council Chair Rapozo: My point is that if we are going to challenge this, if in fact, this is accurate—again, that is the first time that I have seen it—I think that would be a great place to start. Councilmember Yukimura.

Councilmember Yukimura: Just to be clear, what you are suggesting, Chair Rapozo, is that the anti-spiking provisions could be applied to existing employees that came onboard prior to 2012. I think I heard Councilmember Kawakami saying that the legislature declined to do that, saying that you could not

do that legally, but actually, your interpretation and your historical research shows that it might apply to future earnings...

Council Chair Rapozo: I did not hear him say that...

Councilmember Kawakami: I did not hear myself say that either.

Councilmember Yukimura: Okay.

Council Chair Rapozo: I just want to make sure that...

Councilmember Kawakami: Holy moly.

Councilmember Yukimura: In terms of a forward action, I just want to be clear that what is being talked about as a potential solution is that, and we can even propose it as part of the legislative package, is that anti-spiking legislation be extended to future earnings of existing employees hired prior to 2012.

Council Chair Rapozo: It would impact all employees. I want to give Councilmember Kawakami an opportunity because I did not hear him say that.

Councilmember Kawakami: That is not what I said. I said that it would apply moving forward, but just the way the pension spiking happens, I think you spike your pension in your last three (3) or five (5) years...

Mr. Kent: That is right.

Councilmember Kawakami: So in essence, if employers are actually being cognizant of pension spiking, you address the issue by good management and good leadership.

Mr. Kent: But there is that clarification there—in Hawai'i, it is the highest three (3) or five (5) years, so it does not necessarily have to be at the end. Typically, it is done at the end though.

Councilmember Kawakami: Typically it is done at the end because towards the end, people are looking, "I have to go and get that boost," but that is why I think the legislature...in fact, the legislative intent was to say, "Okay, you are going to have to be responsible to foot this bill. If the County of Kaua'i is going to allow this type of overtime to happen unnecessarily, you are responsible at the end of the day." That is why I want to see the data later on between 2012 up until now to see if there is a downward trend because we are getting that shock and awe type of...you see it when we are doing the budget...you get shocked by seeing, "Holy macro, this is a big lump sum that we are going to have to pay out," and I think that is what the counties are seeing is that shock and awe factor like, "Look, now we are responsible for this cost."

Mr. Kent: Yes.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I guess the question is whether management of overtime under the present structure can actually solve the problem or whether we need the application to pre-2012 employees in order to really make an impact.

Mr. Kent: I think you need to fix the mechanism that overtime is included into pension calculations. If that were fixed, then you could just give overtime as needed. Sometimes, you need overtime. This year on Kaua'i, we had a hurricane and I am sure you needed overtime. Right now, since those two are married, since you do calculate it into the pensions, then the only way to manage it is to try to limit overtime, which may not be best for the County either. At the very least, you can try to suss-out overtime abuse, which I am told, is a problem. There are ways to abuse it, I am told.

Councilmember Yukimura: That is what I mean by managing overtime. You would stop the abuse.

Mr. Kent: Right.

Councilmember Yukimura: But if it only applies to employees prior to 2012, then it will take a long time, as the Chair explained, for that to actually have an impact.

Mr. Kent: Right.

Council Chair Rapozo: The fact of the matter is that the numbers look high. A lot of the numbers may not reflect abuse. It reflects collective bargaining. That is entitlements that this State has agreed to and that is the issue. I do not want to paint this ugly, dark cloud over our public safety people because they are getting what they are entitled to; the question is are we doing our best job at the collective bargaining table that is in the best interest of the taxpayers? That is all. Councilmember Kagawa.

Councilmember Kagawa: I just find it troubling that back when I was on the staff here and sitting in one of these chairs, I recall that the high-ranking police officers and firefighters were treated almost like management, so they did not collect, if any, overtime at all per year. They took that high management job with the higher salary and gave up the overtime to the subordinates. Between 1995 and now, and I am here instead of there, something happened that they did not give up their overtime right and they can get both, a high salary plus overtime. It is troubling that the facts show on this slide that you have that a lot of the Police and Fire that I see on this list appears as those that are nearing overtime, like battalion chiefs. They are probably the longest-serving firefighters. You see a number of battalion chiefs on this. You see fire captains, a lot of them...they are probably nearing overtime. Obviously, it is a choice by management to give overtime to those that are nearing their retirement and my question is, Joe, you did a wonderful job alerting us...we have seen these numbers before, because myself and Council Chair Rapozo smell the rat and we had staff pull numbers during the budget to justify some of the cuts that I had proposed using these same type of figures in my arguments to propose cuts. My proposal was to cut the overtime to nearly zero, because I thought on the legislative end, that is how we solve this problem is you just cut their whole budget for overtime. That way, if they have the flood or the hurricane, they have to come and ask. There



is a process to fix...they can use moneys from elsewhere in the meantime while they come up here and ask for the month and a half time that it would take to get the bill through its readings to get the overtime. There is a process. My proposal was to just cut it because you see this happening...the evidence is happening. We have it in front of you. My question basically is the Grassroot Institute of Hawai'i, you folks have pointed out the problem on slide 19 and 20. You have pointed out a glaring problem that appears to be able to be solved by the County having the political will to give the police and firefighters some options. The mainland has dealt with it...San Jose...there are counties that have gone with volunteer firefighters. Hawai'i Island has some volunteer firefighters...they are saying, "Unless you folks fix this problem right here, we are going to volunteer in some areas," and we know that there might be some give and take with public safety, but financially, we cannot sustain doing this. Is the Grassroot Institute of Hawai'i coming out with some kind of deeper marketing ad or what have you to say to the leaders, "Hey, these are some steps that you folks can take now that we suggest"? Is the Grassroot Institute of Hawai'i going to take that kind of...you folks look like you are wonderful in providing the numbers, but I want to see the "knock-out punch" now to say, "Hey, you folks, this is happening, this is the problem, and these are some of our suggestions."

Mr. Kent: The Grassroot Institute of Hawai'i is just a nonprofit, non-partisan, and non-political and we do not really lobby that much.

Councilmember Kagawa: Okay.

Mr. Kent: We just provide information and then it is up to you folks to come up with solutions. I am just suggesting that sometimes overtime is a necessary and good thing, and sometimes it is a bad thing. As long as the legislature keeps the pension calculation included with overtime, then you either have to "throw out the baby with the bathwater" or you have to live with it. It is a tough thing for you folks to handle.

Councilmember Kagawa: Thank you.

Council Chair Rapozo: Councilmember Kaneshiro.

Councilmember Kaneshiro: I have a question in controlling our own destiny. I asked the ERS guys when they were here also, but is there a way for us to split out our ERS cost from the rest of the State. From what I know, we are all in one (1) bucket and I do not mind being in one (1) bucket—as long as we can say, "This is a Kaua'i County employee, this is how much he is paid into the system, and this is how much his retirement is." But for me, I am kind of afraid when we just look at this whole big number and say, "All of you folks owe this much money and here is the bill for everybody." For me, I would much rather see it kind of like in Other Post-Employment Benefits (OPEB). I do not mind being all in the same fund, being managed as one, but I would love to see our County separated. If we have money at the end of the year that lapses and we want to pay down our obligation, I would love for us to pay it down. But I do not want to just dump money in the bucket and it just disappears and we do not get any benefit out of it. Is there any traction to us being able to split up our County's obligation?

Mr. Kent: There is. That is something that Maui County was considering, which is to create a separate fund that they could make advanced taxpayer contributions on their amount of the debt. Let us say that you had a surplus and you wanted to put that towards some future payments towards your share of the debt—they have not passed that yet at Maui County, but certainly Kaua'i County could do the same. I am not sure if it would have to be passed at the County-level or State-level, but that has been floated by Tom Williams, ERS Director.

Councilmember Kaneshiro: Is the ERS prepared to be able to break it up by county and state?

Mr. Kent: I think so, they can do that.

Council Chair Rapozo: I think when Mr. Williams was here, I think he said that it could not be done.

Mr. Kent: Okay.

Council Chair Rapozo: That is what I remember and I think we had that discussion like, "That is so unfair."

Mr. Kent: Okay. Maybe I am misunderstanding.

Council Chair Rapozo: If we wanted to pay down our debt, it would not be credited to Kaua'i. If I remember correctly, that is what he said and that needs to change.

Mr. Kent: Okay.

Councilmember Kaneshiro: Even if it became our responsibility to keep track of our pension liability, I would feel much more comfortable with the County saying, "This is how much we are putting in, this is how much our employees will get at the end," rather than it all being in a bucket and then someone retires and we just get this lump sum bill of forty thousand dollars (\$40,000) for an employee and they say this is a spiking bill, this is what you need—we have zero control and zero foresight in knowing even what those expenses are going to be. I would really love for us to be able to keep track of it, all being in part of that whole, big bucket, because obviously, we get some benefit in being part of the bucket, but I am just not that comfortable not being able to say, "Hey, where is this employee on the schedule? How much have they paid in? How much are they going to get in return?"

Mr. Kent: I think when it comes to the County's annual required contribution, what I believe is that there is a way that you can make advanced contributions to that. But as far as other systems, I might not be understanding exactly.

Council Chair Rapozo: The bottom line is that anything is possible if the legislature allows it to happen and I think that is where the fight has to be taken. It is crazy to think that you can just dump your money and then somebody else is getting credit and getting the benefit. It is almost like a Ponzi scheme. That is not fair.

Councilmember Kaneshiro: If we dumped ten million dollars (\$10,000,000) or twenty million dollars (\$20,000,000) into the bucket now, I do not think the ERS would come back and say, "Okay, here is your future contribution requirements now," and recalculate it just for the County of Kaua'i. I do not think they have the ability to do that. That is why I would love to see us all separated so if we do dump money in, then we can see the benefit of how much more funded we are compared to everyone else, but I think it is all treated as one (1) bucket. No matter what we do, we are in the same boat with everyone else and for me, I guess it is scary. You look at the spiking cost...it is like buying a house—do we want to pay forty thousand dollars (\$40,000) for the entire house upfront or do we want to pay the monthly mortgage payments? For me, with that spiking, it is like we are not paying that employee forty thousand dollars (\$40,000) today or within the next year, so why are we having to pay this huge bill upfront when we can smooth it out through the life of his pension or whatever.

Mr. Kent: Yes.

Councilmember Kaneshiro: I do not know...just some things to kind of give us a little more flexibility on this thing.

Council Chair Rapozo: Imagine your mortgage company...let us say the mortgage company has one hundred (100) mortgages out of that company and you want to pay extra to your principle, but it goes to everybody's principle, that is what is happening and it is not fair. It is just wrong. Councilmember Yukimura.

Councilmember Yukimura: I have been raising this question for several years now asking what the legal protections might be and I think if we want to go off on our own, we have to do a separate fund, but that means the administration of the fund and all of that, too. It is pretty complicated. I wanted to ask a question—one of the solutions that is suggested in your report is to raise the retirement age, and related to this, is it not true that public safety, fire, and police have earlier retirement?

Mr. Kent: I cannot remember off the top of my head, but I do believe that in 2012, the legislature did raise the retirement age for new workers. But certainly, raising the retirement age would be, at least on paper, a solution.

Councilmember Yukimura: But that is where that whole constitutional prohibition...could you do it now for existing employees?

Mr. Kent: That is a good question. I do not know.

Councilmember Yukimura: Okay. All the reasons that the Budget & Finance Committee Chair just mentioned about the problem with spiking could really be addressed probably in the cleanest way by disengaging the overtime from pension calculation.

Mr. Kent: That is right.

Councilmember Yukimura: Then you do not have to worry about “throwing the overtime baby out with the bathwater.”

Mr. Kent: Right.

Councilmember Yukimura: So that really is the cleanest, to disengage overtime from pension. It can be managed separately, but we do not have to worry about its impact on pensions.

Mr. Kent: That is right.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: Thank you, Mr. Chair. I do not think the Budget & Finance Committee Chair was implying that we should manage our own ERS fund. The ERS is the right entity to manage it. I think we are trying to find out is with technology...it should be able to happen that they take a look at our current roster of employees, what their salaries are, and what we are responsible as far as contribution. There should not be a reason in this day and age why they would not be able to separate that data and I think that is the question that needs to be had at the legislature. The ERS is saying they can do it because based on their current staffing levels or with their software that they are using, they do not have the capacity to do it, then that is one thing. Let us invest in modernizing ERS so that they can do it because we should be able to pay more when we can to sort of leverage the future going down the road how much we are going to have to contribute and if we can do it, why would we not want to? I think it can happen, but the question is, is it because of ERS' current capacity? How do we fit in with the rest of the states? Are most states just on one retirement system that manages all of the counties or is it kind of haphazardly here and there? The next question is that hybrid plan, when you say that it is in-name only, explain something about that hybrid plan being in-name only.

Mr. Kent: First of all, what was the first point that you made again?

Councilmember Kawakami: I was just clarifying on ERS' capacity as to whether they can break down county-by-county what our responsibility is.

Mr. Kent: I wanted to comment on that because in theory, you would be able to because your own county budget has all of the numbers of your salaries that you pay in overtime and so on. That is how I was able to obtain the information that I had. So in theory, you would be able to double-check the numbers you have against ERS' numbers and see. That is one way to do it. You asked about the hybrid plans—Hawai'i has a hybrid plan, but it is hybrid in name only. It is actually a Defined Benefit Plan. They call it a “hybrid plan” and I am not exactly sure why they do, but it might have been a nice sales word or something, but that is the plan that new employees are put into as of 2012.

Councilmember Kawakami: Okay.

Councilmember Kaneshiro: Thank you, Councilmember Kawakami. I did not mean that we are going to separate from ERS completely, it is just being able to look at what is our County's obligation by ourselves and not as an entire bucket. To further that, you look at how they calculate the contributions and our employees are included with teachers and employees that we do not even have. So if teachers are living longer and they are going to redo the calculation, then the counties are paying a higher contribution for employees that we do not even have. They are going to say, "Teachers, UPW, HGEA—we are all included. They are all going to pay this certain percentage, but we are going to recalculate because teachers are living longer, so the UPW, HGEA, teachers, and everyone is going to pay a higher contribution now to accommodate that in the pension." Again, I would rather us control our own destiny. We look at...have ERS look at UPW and HGEA...the employees that we pay for...you look at Police and Fire...Police and Fire are split from all other employees. Police and Fire are only County employees we pay an excess of almost forty percent (40%) of their salary into pension.

Mr. Kent:

That is right.

Councilmember Kaneshiro: If we are going to have State employees in ours, then let us put all of our county employees in one bucket, too, and everybody is going to pay a higher rate. But if we are going to split it, then at least let us control our destiny and let us have our Police, Fire, and all of our other unions and employees. For us to have State employees that we do not pay for included in our calculation as far as what our contribution is, I do not know...for me, I think as a County, we want to be able to control our destiny and do it as fairly as possible. I do not know. You would think that the ERS has the ability to break out the counties and state and everything, because when an employee retires, they have to come up with a number for what that obligation is. For me, I would just love to have them split us out so if we do want to control our destiny, if we do have excess money at the end of the year and we want to pay down the obligation, then we are able to do that.

Mr. Kent:

Just a comment—I have found the ERS to be very transparent actually. Sometimes, it takes a few E-mails or calls and things and usually we get the information that we want. So if there is information that you are looking for, they may have said that they could not, but they may be able to.

Council Chair Rapozo: Mr. Williams was very transparent, I thought, when he was here. I think I may have even made a comment saying that he still better make sure that he has a job when he goes back to O'ahu because he was very open. But we split out real property tax bills over thousands of properties and they cannot say that they cannot make it happen where each county would be treated independently, even with today's technology. They just cannot. I do not buy that and I think it is in the State's benefit or their advantage to do it the way they are doing and that is why they do not change. That is unfortunate. Councilmember Yukimura.

Councilmember Yukimura: I was not implying that you were implying that we have to create our own fund, but I think the answer I got from Mr. Williams was that it is so structurally entangled that it is very hard to pull things apart. If the crash comes, how do you allocate that liability, etcetera? My other question is are the teachers in the same ERS system?

Mr. Kent: Yes.

Councilmember Yukimura: But they have some kind of different...I guess by collective bargaining, maybe it is a different retirement plan.

Mr. Kent: I think they are in the same plan as everyone else. I was a teacher in Hawai'i in the hybrid plan, just like a lot of workers. Judges have a different plan, police and fire have a different plan, but teachers are in the same plan with everyone else.

Councilmember Yukimura: Okay, they are in the same retirement system.

Mr. Kent: The same system and a different plan.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Councilmember Kawakami.

Councilmember Kawakami: I think the thing is teachers live longer.

Mr. Kent: Yes, that is right.

Councilmember Kawakami: I am married to one, so I hope she lives forever if you are listening. What about elected officials? I am looking at my number and my wife has been a teacher for fifteen (15) years and three (3) months and I have been an elected official for nine (9) years and seven (7) months—how can I have more in my retirement than she does? Is it because we are contributing more as an elected official? What is the deal?

Mr. Kent: I do not know if you had another State job or a County job, but that would account for perhaps double-dipping. If you are employed in two (2) different government agencies, then you can double-dip. So maybe that accounts for it, but that is just speculation.

Councilmember Kawakami: No, that does not account for it. I am not double-dipping.

Mr. Kent: Okay. Sorry.

Councilmember Kawakami: This is my only County job. It is interesting because that is the truth...that is a fact...I am looking online at our numbers. Then I do not know if elected officials are actually contributing more. I think it varies by class, how much a teacher will contribute to the plan versus an elected official. I notice that I am on a contributory plan.

Mr. Kent: Okay. I am not an expert on public official plans.

Councilmember Kawakami: Okay. Thank you.

Council Chair Rapozo: I better go check mines, my wife has more than me. Teachers live longer and police officers live shorter. I remember when I was at the Police Department and they said that an average lifespan of a police officer after retirement was seventeen (17) months and I think that accounts for the opportunity to let them go out early. I do not know about the Fire Department, but I would assume it is similar.

Mr. Kent: Right.

Council Chair Rapozo: I would assume just the stresses of the job and all of that create a very short retirement. It is not funny, but I think that is why they allow for...not an early retirement, because you have to serve the twenty-five (25) years. If you get in young, you get out young.

Councilmember Yukimura: There may also be a gender differential because teachers tend to be more female and the police tend to be males, so that may be part of the reason why you have this longevity differential. As it gets more integrated, there are more men becoming teachers and more women become police officers. Maybe that factor might change.

Mr. Kent: There is certainly a geographical difference. Hawai'i has the longest living people in the nation, which is a good thing I guess. I do not want to change that.

Council Chair Rapozo: No, not for a lower premium. We keep the longer life. Any other questions for Mr. Kent? If not, thank you very much. I want to take some public testimony. Hang around, you may be brought up again.

Mr. Kent: Sure.

Council Chair Rapozo: We appreciate you being here, Sir.

Mr. Kent: Thank you.

Council Chair Rapozo: It was a very informative presentation. I think you opened up a lot of people's eyes here on Kaua'i today. Anyone in the audience wishing to testify? Seeing none, I will call the meeting back to order. Councilmember Kagawa.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Councilmember Kagawa: Today's discussion reiterates the major problems that we have with our pensions, not only in the County of Kaua'i, State of Hawai'i. The State always says how well they are doing, but they do not remind the public that they are thirteen billion dollars (\$13,000,000,000) plus in the hole. Any business that was thirteen billion dollars (\$13,000,000,000) in the hole would not brag about doing well. Our United States government, of course, is a bigger disaster, it is twenty trillion dollars (\$20,000,000,000,000) plus in the hole. Trillion now, so you add three (3) more zeroes to the billion. It is a disaster. Pension costs is going to be more difficult to catch up on, but like he has pointed out in slide 19 and 20, we can do

something about the spiking. From the legislative end, you just cut the funds. If management refuses to work with the legislative side to address legitimate numbers provided by ERS, the Grassroot Institute of Hawai'i, then you just cut the budget, you cut the overtime. That is how the legislative end can deal with it. We just have to get the political will to say, "Hey, as long as we hear the sad stories about how our people are going to suffer and public safety is going to go down"—the highest guys in overtime is higher ranking officers. I do not think that hurts public safety. I think all it hurts is their pockets. I think when you allow it to happen, year-after-year, it gets harder to take away, but at some point, for the sake of our children and our future, we are going to have to work with the unions of Fire and Police, even Solid Waste. I look at this and you have to ask yourself with the Solid Waste worker here, Wastewater Treatment Plant Superintendent, salary of about seventy thousand dollars (\$70,000) with overtime of thirty-nine thousand dollars (\$39,000)...wait...is that sixty thousand dollars (\$60,000)...sixty-six thousand dollars (\$66,000) he made in overtime...what happened? He doubled his salary in overtime. Why is the superintendent working all of the overtime? It should be the lower-paid guy with the superintendent just checking up and saying, "How is it going? Is the thing not leaking in the ocean?" It should not be the higher ranking guy cleaning the pipe or whatever. You have to scratch your head at this. To make sixty-six thousand dollars (\$66,000) in overtime over one (1) year—that superintendent was basically doing the whole job on overtime, right? What is wrong with that picture? Then the Solid Waste Worker II made forty thousand dollars (\$40,000) in overtime—how did his other Solid Waste Worker II companions feel? This lucky guy received forty thousand dollars (\$40,000); how much did the rest of the guys get? They probably got like five thousand dollars (\$5,000) or something. So it is management probably taking care of one (1) guy. I have to rub the crystal ball and guess, but I do not think every guy made forty thousand dollars (\$40,000). We just cut the hours at the transfer stations. We cut it so that we say, "We are going to eliminate overtime." But the paper does not lie, the numbers do not lie. This is not coming from the Council making up numbers; it came from outside sources. Here also is a Solid Waste Worksite Supervisor making forty thousand dollars (\$40,000) in overtime. Why is the supervisor...even if it would be the landfill, why is he working so much? His job is to supervise and check-up, "Are you folks okay? What do you need?" It should be the workers doing the work for the overtime. You have to scratch your head. We have to do better. We have a new mayor coming onboard soon and I think this is a serious problem. It is serious because it just carries forward, as long as the guy lives. That is a lot of money flying out the door. It is a reverse money tree.

Council Chair Rapozo:

Anyone else? Councilmember Yukimura.

Councilmember Yukimura: I want to thank Mr. Kent for a very enlightening presentation of something that has been happening for a long time and needs to be corrected, but I think it is a lack of awareness and lack of political will. I know it has been said that the counties need more control over Police and Fire collective bargaining. Well, in fact, we do have some control. We do approve or disapprove the collective bargaining agreements and I want to point out that Councilmember Kagawa, Councilmember Chock, and I were the only ones who voted against the Fire collective bargaining raises. We could have really sent everybody back to the bargaining table to look at these problems. So we cannot just blame the State Legislature for not having the political will to address them. It has been really made clear today that one of the key ways...I think most people really understand



how spiking is, especially with high-salaried officials. It is curious that management officials are now getting overtime, because that used to be the dividing line between blue collar and management, but now everybody is getting overtime and spiking is the result of that. One of the best remedies would be to disengage overtime from pension so that pensions are not calculated based on overtime. That would be a really clean way because sometimes we do need overtime and just cutting overtime out of the budget is hurting the community, too, and really making it hard for Police, Fire, and other entities to operate. So that is not the real solution. The real solution is taking those two apart and hopefully that is something that we can advocate with a unanimous voice and maybe test the proposition about future services versus past services.

Council Chair Rapozo:

Anyone else? Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. Thank you to the Grassroot Institute of Hawai'i. I think it was a great segway to what Mr. Williams' presentation was from the ERS because it really actually opened up the door even further. What I liked about it was that the discussion is moved towards one of the action items that we can take more specifically. I was in an interview recently and the question I think was about what was the biggest financial risk to the County and this is probably the area that we all need to continue to look at is at it relates to our budget and salaries. It is very complex, as was mentioned in this whole discussion about where some of those issues are really arising as it relates to our ERS and unfunded liability. I think the State Legislature has taken the first steps. I am looking at Article 16, Section 2, in future services and I think it is where we need to follow through on and see what can be done further. I like this idea of separating the pensions from overtime, the spiking that we have experienced, and I think this administration and this Council, particularly through Vice Chair Kagawa, has taken a lot of steps to try and control that and I think that needs to continue. The other area is that idea of raising the retirement age, I think, is something that we need to consider; definitely Councilmember Kaneshiro's suggestion of sort of separating us by our own numbers into our own bucket, I think, would really help to quantify what it is we should be managing and how so. Certainly, you cannot deny the numbers that are showing up. It is right there in this presentation and I think to shed light on it really gives us a lot more leverage and ability to move forward on some of these action items. Thank you, Mr. Chair.

Council Chair Rapozo:

Anyone else? Councilmember Kaneshiro.

Councilmember Kaneshiro: I do not want to talk about collective bargaining too much, but it was not like we did not fight. The collective bargaining was arbitrated, so in fairness to the other members that did not vote for it, what would the cost be to continue to fight an arbitrated amount and what would the benefit be? At that time, the Police and Fire increases might have been two percent (2%). What is the cost to the County? It has already been arbitrated. What is the cost to us to vote "no," have it continue to go through...I do not know what it will go through because unless we provide something significant to change the arbitrated decision, we are just going to end up in the same spot anyways. It is what it is. As far as our ERS, yes, I would love to see us to be able to not split from the ERS program, but be able to see what our County obligation is and then control our own destiny as far as being able to put more money in, seeing that benefit of how

well-funded we are over the life of our pension...it does come down to fairness also. We look at Police and Fire...we are going to be paying almost forty percent (40%) of their salaries into ERS as a County contribution, and then you look at all other employees, which include State employees also, like teachers will be paying up to twenty-five percent (25%) contribution into the ERS for that. Again, I would love for us to control what the County's obligation is. For County employees, I do not want teachers in our calculation...I want our County employees in our calculation and whatever it is...if it ends up worse, it is what it is, but I think for the County to be able to control our own destiny is what I would love to see. Again, thank you for the presentation. We have had the ERS come in for the last two (2) years with their presentation and it is a dire obligation for us, but again, what is our motivation to reduce that obligation if we cannot be broken out and we cannot see the benefit of any additional contributions? We are just not able to control our destiny with the way it is set-up right now.

Council Chair Rapozo: Anyone else? I will just say thank you again for being here today, Mr. Kent. Councilmember Yukimura said that we have to advocate as a single voice and she is absolutely right, and we did that to get a non-voting seat on the collective bargaining table—harmless, you would think, but that got shot down by the legislature. I am not very optimistic that this legislature is going to give the County any benefit or any opportunity to be heard. That is clear. A non-voting seat...that is harmless, just so we could be aware of what was going on. Overtime and spiking are unknown variables. It is very hard to predict your future or budget properly when you have those types of unknowns and I am not going to sit here and say whether they are needed or not. We get a flood or we get a hurricane we get a broken water line, or whatever it may be, we have to mobilize people and most of that has to be done on overtime. I am not saying that overtime is bad. I think the management of overtime is critical as well. If you look at the numbers...this is where I think the people got to really understand. As our operating budget, we have a huge percentage that goes out to personnel costs. Between 2017 and 2021, our contribution will go up by almost eight million dollars (\$8,000,000), so in 2021, we will be paying eight million dollars (\$8,000,000) more than we are paying right now. Where are we going to get that money from? That is the question that the public has to understand and Councilmembers have to understand that where do we get that from? It has to come from somewhere...with costs rising everywhere else in our economy. Seven point six percent (7.6%) of our operating budget is paid to this contribution; the highest in the State compared to the State's contribution of a little over three percent (3%). Is that fair? Who is getting the short-end of the stick here? It is the counties. Seven point six percent (7.6%)—you add that to the personnel costs to the other fixed costs that we have to pay, that leaves very little for our programs and our services. We have to start thinking about how we are going to control this beast. I think the anti-spiking...we will send something over...Mauna Kea, basically in a very cursory look of the statute and he thinks that we can probably do that, the State can, but I would suggest that we do a resolution and send it up to the State and urge them to consider prohibiting the spiking for all County employees. I do not care when they started. It is not fair. You come in and you just rack up your overtime in your last three (3) years. That hurts the taxpayers, so we will work on that and we will get that up to the legislature. I do not expect them to do anything with it, but at least maybe the other counties will stand with us and we can come up, like Councilmember Yukimura you said, because I agree that we have to come up with a single voice, although I do not expect much from them. Councilmember Yukimura.

Councilmember Yukimura: As far as the non-voting seat, I just want to say that I think years ago, the League of Women Voters suggested that there should be a member representing the public on the collective bargaining tables in all cases and that was a really interesting concept because right now it is a pretty closed shop. The other thing that I want to say, Chair, about the additional eight million dollars (\$8,000,000) that we are going to need in the future per year, that really emphasizes our need to control our real property taxes if the Budget & Finance Committee Chair is talking about controlling our destiny, we have to control our revenue sources and that goes to the constitutional amendment that is trying to give the State uncontrolled access basically to real property taxes, which is something to take into consideration when considering how to vote on the constitutional amendment.

Council Chair Rapozo: Any other discussion? Seeing none, the motion is to receive.

The motion to receive C 2018-207 for the record was then put, and unanimously carried.

Council Chair Rapozo: Thank you very much. At this time, we will take our ten-minute caption break. We will be back at 10:40 a.m.

There being no objections, the meeting recessed at 10:28 a.m.

The meeting reconvened at 10:44 a.m., and proceeded as follows:

*(Councilmember Brun was noted as not present.)*

*(Councilmember Kawakami was noted as not present.)*

Council Chair Rapozo: I will call the meeting back to order. Next item, please.

C 2018-206 Communication (08/06/2018) from the Acting County Engineer, requesting Council approval to write-off two (2) finalled (inactive) sewer accounts (Consolidated Maui, Inc. and Anekona Ownership, LLC) totaling an uncollectible delinquent amount of \$91,470.57, pursuant to Section 25-14.3 of the Kaua'i County Code 1987, as amended: Councilmember Kagawa moved to approve C 2018-206, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: Can someone come up? I have a question. I will suspend the rules. I am not sure who is able to answer this question.

There being no objections, the rules were suspended.

LYLE TABATA, Acting County Engineer: Good morning, Chair and Members of the Council. Acting County Engineer, Lyle Tabata.

Council Chair Rapozo: Thank you, Lyle.

Mr. Tabata: This case has been going on for a number of years; we have exhausted ourselves and our means to try and collect this money and we have come to a point where we feel that it is a waste of everybody's time to keep continuing to pursue, as the company who we are trying to collect from is no longer in business.

Council Chair Rapozo: Councilmember Kagawa.

Councilmember Kagawa: So this property is near the Aloha Beach Resort?

Mr. Tabata: It was formerly owned by this company.

Councilmember Kagawa: So the present owners cannot pay this?

Mr. Tabata: Well, they have no obligation.

Councilmember Kagawa: So when a present owner buys this property with this delinquent obligation, they do not buy the obligation as well?

Council Chair Rapozo: That is probably for Mauna Kea.

Mr. Tabata: Yes, maybe we can have our attorney help us.

Councilmember Kagawa: For me, it does not make sense. If you have an obligation, then sell your property and that way you do not owe anybody; no, that is not how it works.

Council Chair Rapozo: The problem with this one is that the land is the State's land and they lease the land from the State and we cannot go after the State. Mauna Kea, can you give us a little bit of...it looks like we went through every single possible remedy. In court, we won...it looks like they put a lien against the property. They left, they went insolvent, and they have no assets, so basically, we are left holding the bag. That is kind of what I read.

*(Councilmember Brun was noted as present.)*

JASON KAGIMOTO, Chief of Wastewater: Correct, as you mentioned, it is State land, so that is that...

Councilmember Kagawa: So this was a hotel on State land?

Mr. Kagimoto: I think it is the one that it is that hotel...sorry, I forgot to state my name, but my name is Jason Kagimoto, Chief of Wastewater. I am pretty sure that this hotel is the one that is that hotel...I think it is the Hilton Garden Inn now, but it is the one on the Līhu'e side of the Wailua River.

Councilmember Kagawa: Okay.

Council Chair Rapozo: So my question, Mauna Kea, is they do not own the land, they lease the land, and the building is an asset to the corporation? I

would assume that this company, Anekona Ownership, LLC, they did not own the land, but they owned that building.

Mr. Trask: For the record, Mauna Kea Trask, County Attorney. I do not know how the lease was structured as far as ownership of the building with the State, but like you said, we foreclosed on the property. It looks like we looked for another ability to get judgment in 2010. Basically, the corporation folded, there was no entity to go after anymore, and the landowner is the State so we cannot get a bag from them.

Council Chair Rapozo: When it says that "judgment was recorded against the property with the Bureau of Conveyances," is that not recorded with the structure? In other words, I always thought that if you have a judgment and you put a lien on that property, whether it is land or a structure, they could not transfer that structure. In this case, I think they foreclosed, so it is not like they sold the property or the lease. Councilmember Kagawa's question is does that recordation of the judgment not stay with that property; or in other words, the new owner, whether it is foreclosure or not, are they not obligated to pay the debt?

Mr. Trask: Like we said in the second to last paragraph on page 1 of the letter—this is not confidential—"We filed the judgment, it was recorded and because Anekona had no assets, the County attempted to collect the amount from the property owner, State of Hawai'i. The State Department of Land and Resources (DLNR) refused to pay, citing the State's sovereign immunity from any obligation imposed on it by County ordinance. In April 2011, then County Attorney at the time, Al Castillo, decided it would be fruitless to file for the legal action." You cannot sue the crown, so like the previous conversation, the agenda item, they hold all of the power and they make all the rules and they decided that we cannot sue them in this regard.

Council Chair Rapozo: I guess my question is if a property goes into foreclosure, if an owner has a property, and understanding this lease, the land is State's, but the property...that is where I am confused...you go into foreclosure, you have to pay the outstanding debt on that property, the new owner. In other words, you come up and you bid the starting bid or the upset price, which is the cost, right? Was the lien or the amount not in that so when it went into foreclosure, the first person to get paid would be the County? That is where I am confused a little bit.

Mr. Trask: If we had priority lien. That is the thing, if you are not priority lien, like real property taxes, the County has a primary lien for State statute. So thanks for that. In this case, it does not look like that was the priority. So oftentimes, if you are a corporation and then you have a bunch of debt, you (inaudible) securities. What is the primary lien, secondary, tertiary...at a certain point, the money runs out and if you are fifth in line and there is no more money, you are out. This is a more of a sovereign immunity issue, so it is different from any other private deal.

Council Chair Rapozo: Well, the sovereign immunity means with the State.

Mr. Trask: Yes.

Council Chair Rapozo: I am talking about the building.

Mr. Trask: That is the thing. I am not sure what the lease terms are with the building, but like Hawaiian Homes, or my father, leases land with the building on it...the building runs with the land. You lease that structure for a term of years, but you do not own it.

*(Councilmember Kawakami was noted as present.)*

Council Chair Rapozo: Okay, that clears it up. If the lease was for land and building, which would be strange to me how the State would own a hotel.

Mr. Trask: Well, they have development corporations. There is a bunch of stuff. That is the thing, I do not want to speculate. I just want to make clear that that is usually how it works. I do not know the specific terms of this area.

Council Chair Rapozo: Okay. Councilmember Kagawa.

Councilmember Kagawa: Is the ninety-one thousand dollars (\$91,000) is gone? It is writing off...it is like we went to play Black Jack in Vegas, ninety-one thousand dollars (\$91,000), and we busted?

Mr. Trask: It is like a bad investment. Sometimes you put money in the stock market and it does not pan out.

Councilmember Kagawa: Okay, now my second question is why did we let our debt get so high? Why did we not shut this person's water off when it was at ten thousand dollars (\$10,000)? How did we let this thing pile up until it got to ninety-one thousand dollars (\$91,000)? So going back, if we can rewind and see how we can get better the next time.

Mr. Kagimoto: Sure. I guess to clarify, there is actually two (2) delinquencies, so a total amount of ninety-one thousand dollars (\$91,000). On the one that is Anekona's, for that one, I think from the County Attorney's side, we are all in agreement that the County did as much as they could. The other thing, to answer your question as far as shutting off their water, that would basically put them out of business. I would say that is a proactive amount before we get to a higher amount, but the ability for them to pay it off would pretty much be very limited.

Councilmember Kagawa: I am just saying that with KIUC that if you do not pay your electric bill, what do they do?

Mr. Kagimoto: They shut it off.

Councilmember Kagawa: With Spectrum, what do they do? With sewer, we do not have anything to shut off because sewer is a pipe that stuff goes in, right? But you can shut off their water because we are the County and the Department of Water is the County, so we could say, "Hey, Department of Water, we do not have a

switch to turn off their sewer, so let us shut off their water instead because that makes people pay.” So do we not have that ability?

Mr. Kagimoto: It is actually our sewer ordinance that we do have those measures.

Councilmember Kagawa: We can shut off their water?

Mr. Kagimoto: Yes.

Councilmember Kagawa: So in hindsight, maybe next time we can look at shutting the water off a little sooner.

Mr. Kagimoto: Possibly.

Councilmember Kagawa: Business or not, KIUC or Spectrum does not care if you are a business. If you do not pay, they switch it off. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I concur that we should have a policy of bringing the matter to a conclusion earlier. Even if they do go in, I can hear you saying that if they have to close down their business, they will not be able to pay their bill, but better it happen sooner than later if it is going to happen anyway.

Mr. Kagimoto: I think my understanding of how we have addressed delinquencies over the years is that we have taken, prior to that, our steps are generally like after the delinquency gets to a certain amount, we will go ahead and file a lien on the property or those kinds of things. So that has been historically our approach and we have been, with the help of the County Attorneys, they have been helping us put out those letters, whether it is residents or businesses, and we have been a lot more proactive on it and it has been helping with our overall delinquencies, but there are some of these bigger accounts or items that we are trying to address. To clarify, some of these are some older accounts that have been on our books for a while that we are trying to finally get through. We are trying to work through the process and kind of get better at it.

Mr. Trask: I want to add to that real fast. If you look, these are old accounts, and in the past couple of years, like I have stated before, we have been working with Real Property Tax, Wastewater, and other utilities divisions to get on these collections. We are able this year with just a bit of investment in infrastructure, upgrading some clerks...we have very capable clerks to paralegals... we collected about two hundred fifty thousand dollars (\$250,000) in fees owed to the County, whether it would be a cash or payment plan.

Councilmember Yukimura: So that is very commendable that you are doing that. The thing is that even if you had a lien against State property, it does not really mean anything, right?

Mr. Trask: Well, it does.

Councilmember Yukimura: What does it mean? Can you actually collect?

Mr. Trask: Well, I do not want this to be...we would say this is more of an aberrant case and I do not want to idea to say that if you are leasing State property that you do not have to pay County bills. We are going to come and get you for County bills. However, if we cannot for whatever reason, then that is just the law. We do everything we can. I do not care where you are, if you owe my client money, I am going to come and get it.

Councilmember Yukimura: Well, the thing is that you may be able to use that as leverage, but if push comes to shove and you go to court, you cannot enforce the lien against the State property, right? Or can you?

Mr. Trask: If you have a foreclosure, it tends to wipe out unsecured liens. So the question is, in one of these, we did not get notice of the bankruptcy until after the bankruptcy was done. That was unfair.

Councilmember Yukimura: So how do you establish whether it is running with the land or recorded or whatever? In Deputy County Attorney Adam Roversi's letter recommending writing this off, it says, "I recommend that Wastewater consider policy changes with regard to leases of State property to provide some assurance that situations such as this could not arise in the future."

Mr. Trask: Yes.

Councilmember Yukimura: So I am wondering, what are those policies that could possibly give us a better position with respect to State properties that will prevent us from getting into a situation like this?

Mr. Kagimoto: I think for those kinds of things, we are still...like I said, historically, we have had a certain approach. In the past several years, we have been trying to get better at it. So I think those are things that we are still evaluating. On the surface, it is what Councilmember Kagawa kind of mentioned, which is taking a more proactive approach a lot sooner than waiting for the delinquency to build up. I guess what we are trying to do is make progress and change the whole historical approach to the program, so it will take time, but we are here because that is what we are trying to do, we are trying to better our situation.

Councilmember Yukimura: So you have talked about what kind of policy changes Mr. Roversi had in mind?

Mr. Trask: One of the policy changes that our office took is to send out those letters. If you look at that letter, it is dated May 6, 2015—like I said, we have gotten our abacus system and we are looking to upgrade that and make it even more workable, but I just received a text from the First Deputy that we actually got two hundred seventy-three thousand dollars (\$273,000) this year. So that was the lowest hanging fruit and we decided to grab it. It is a mutual thing. A lot of your departments need that legal support to go and do that. So we identified the need with them and we did everything we can do and now we are doing that.



Councilmember Yukimura: I think that is excellent. I just want to know if there is anything in terms of policy changes that are specific to State properties because of the unique situation we seem to be in with State properties.

Mr. Kagimoto: That is still a work in progress and we are still evaluating it. Now that we are going through this process, I did bring it to the forefront as far as we need to come up with those policies and work with the County Attorneys to get there.

Councilmember Yukimura: Okay, so you are not sure what those policies are, but you folks are going to work on finding out what they may be?

Mr. Kagimoto: One of the things that I mentioned was maybe basically having a more proactive approach as far as when do we start enforcing or when do we look at possibly shutting off water and those kinds of things, but...

Councilmember Yukimura: That is very good...that applies to all properties, right?

Mr. Kagimoto: Yes.

Councilmember Yukimura: Whether it is State or not?

Mr. Kagimoto: Yes.

Councilmember Yukimura: I just wondered if given the unique situation of the State, whether there are unique approaches that you can take, but I am glad if you are going to start looking at that. Good. Thank you.

Council Chair Rapozo: How many delinquencies do we have?

Mr. Kagimoto: As a total dollar amount? I do not know off the top of my head, but I know that these were a good percentage of the total amount. So if I had to guess, this might have been like a third of the total amount of forty percent (40%) or something like that.

Council Chair Rapozo: I had that one question that I was going to ask that this thing was dated in 2015; why did it take so long? It is interesting because in 2011, Al Castillo said that "it would be fruitless to file further legal action," but I do not know if we had any other options, Mauna Kea? We do not know if the land came with the property, the actual hotel, right?

Mr. Trask: I was not involved in that decision.

Council Chair Rapozo: That concerns me because I do not know how the thing got bought if we, in essence, put a lien on that structure. I understand what you said, first, second, third, or whatever, but how did we allow this? Somebody should have paid for it. Whoever purchased this foreclosed property should have had to pay that bill. I do not know. Maybe it is not; maybe it is part of the land? In 2011, Al Castillo says that it was fruitless. This memorandum was written in 2015 and it is 2018 today. That is seven (7) years and I think that is of concern for me. I know

you were not here, so this is not pointed to any of you, but I am just saying that we have to fix the process.

Mr. Kagimoto: Sure. That is why we are here. We are always trying to evaluate on how we can get better. I am not trying to remove ourselves from this situation. It is what we have and we are trying to get through it.

Council Chair Rapozo: Okay. Mauna Kea, have you looked at this and are you also in agreement that there is no more legal opportunity for us to go after these funds?

Mr. Trask: Irrespective of Mr. Castillo's determination in 2011, when this was written in 2015, I was the County Attorney and I did review this stuff. According to the information that we got, Adam and Matt, I believe, respectively signed these letters...I respect their practice. Seeing this type of stuff is exactly why again I put more emphasis on doing more collections and working with Finance. You agreed with our office this past budget and working with Finance who graciously gave us one of their positions and partial funding. We are going to fill a designated Finance person to go pursue, not only real property tax, but all the moneys owed to the County, because it is not a lot at one time, but it adds up. It is not always fun to collect debts, but it is necessary for the County to run, so that is what we are going to do and that is what we have been doing.

Council Chair Rapozo: Okay. Councilmember Kagawa.

Councilmember Kagawa: I just want to go back into history a little bit. So when we had the sewer line hookup mandates, people were forced to shut down their cesspools and then hook up to the County sewer line. As a result, I know way back when I was a staffer here, I remember that we had problems with a significant number of individuals that refused to pay that sewer bill, simply because we did not have any means of shutting off their sewer. These were people that said, "Hey, my cesspool never used to cost me anything. Now you folks forced me to hook up to sewer line; why should I pay?" I am wondering, what did we do with all of those people who refused to pay back then? Did we write them off at some point and tried to go forward or are those still on our records showing as delinquent?

Mr. Kagimoto: I cannot speak to the specific situations, but the way that our ordinance is set up is, yes, if we do build a sewer line down the road and we do provide a lateral, you are required to connect. Regardless of that, we are going to start billing. As far as whether or not they did or not, at least it is within our conglomerate—I cannot speak to the specific instances, but it is within that overall debt or delinquencies that we have if they have not been paid, which we are working through if it is an issue.

Councilmember Kagawa: So we have records and we can request some of those delinquencies and do some research for ourselves. Okay. Thank you.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: The Consolidated Maui, Inc.'s delinquency was for thirty-five thousand dollars (\$35,000)—where is that property? That was not a State land issue was it?

Mr. Kagimoto: From what I understand, that is the old Kaua'i Sands property.

Councilmember Yukimura: Kaua'i Sands?

Mr. Kagimoto: Yes.

Councilmember Yukimura: It looks like it was a matter of us not having priority again in a forced selling of assets, right?

Mr. Kagimoto: For this one, part of the issue is when they filed for bankruptcy, the account was not delinquent. In that kind of regard possibly compounded or allowed for this situation to occur. When they filed for bankruptcy, they did not have a delinquent account, so there was nothing for us to do that moment in time.

Councilmember Yukimura: I see.

Mr. Trask: That is when you talk about notice. So they are paid up until 2013. They filed bankruptcy in 2009 under Chapter 7 and we were not a creditor or debtor at that time, so we did not get any notice. When it did, it was already effectively discharged. Those are interesting systemic issues to look at, but that is nothing you can really legislate at this level.

Councilmember Yukimura: Unless you can change the bankruptcy laws to say that County government should always be given notice.

Mr. Trask: That would be great, let us go talk to our congressional delegation.

Council Chair Rapozo: When they apply for sewer service, you ask them if they are currently going through bankruptcy.

Councilmember Yukimura: Yes, that is an idea.

Mr. Trask: That may work in certain circumstances. In this one, when they applied, they were not in bankruptcy. When they filed bankruptcy, they did not owe us any money.

Councilmember Yukimura: The debt accumulated while they were going through bankruptcy and then they said that...

Mr. Trask: Four (4) years into it.

Councilmember Yukimura: The delinquency was not discharged by the bankruptcy case because we were not a party to it, they did not know about the debt.

Council Chair Rapozo: Any more questions? If not, thank you. Any public testimony? Seeing none, I will call the meeting back to order. Any discussion?

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: There was discussion years and years ago about combining the sewer and water billings—Councilmember Yukimura, I think you might know about this—so that when the sewer was delinquent, you could shut off the water. There was a lot of discussion as to what impacts it would have to the families that are struggling. I think that we just have to be more vigilant when we hook these people up and make sure that we know who we are hooking up and protecting ourselves in the future. I think that is the direction. Councilmember Kagawa.

Councilmember Kagawa: In any business, one of the most problematic parts of doing business is your uncollectible. With KIUC and Spectrum, they have no problem in that area because they have immediate remedies to that problem. I think if we really want to operate like a successful business then we need to utilize the immediate remedy theory into our sewer bills. Thank you, Chair.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: I agree and especially when it is with respect to hotels or large businesses, because I think there is a distinction between the household and a business situation. I am grateful that our Administration is really following up on all of these delinquent accounts and bringing them to some conclusion, because part of the conclusion is getting payment and others where there is no possibility and of course we have to write off, but staying on top of it is really important to getting as much money in return as we can and I am glad that they are looking at policies that are going to help us collect to the best of our ability.

Council Chair Rapozo: Staff, I would be curious to see the delinquencies, so if we can request that information and not just Wastewater, but Real Property and Water as well. I am just curious to see how much we are holding as far as uncollectable. With that, the motion is to approve.

The motion to approve C 2018-206 was then put, and unanimously carried.

C 2018-208 Communication (09/05/2018) from the Director of Parks & Recreation, requesting Council approval, to accept an in-kind donation from Global Specialty Contractors, with a value of \$6,215.00, for labor and materials to repair the guardrail in the parking lot at Vidinha Stadium: Councilmember Yukimura moved to approve C 2018-208 with a thank-you letter to follow, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-208 with a thank-you letter to follow was then put, and unanimously carried.

C 2018-209 Communication (09/05/2018) from the Executive on Transportation, requesting Council approval to receive and expend a Fiscal Year 2018 Federal Transit Administration (FTA) Section 5339(c) Low or No Emission (Low-No) Bus Program competitive grant, in the amount of \$1,500,000.00, and to indemnify the FTA. This Section 5339(c) grant will provide eighty percent (80%) of the cost to replace three (3) diesel-powered buses exceeding their useful service lives with up to three (3) electric-powered buses, and provide for the design and construction of depot charger ports required for electric bus charging: Councilmember Chock moved to approve C 2018-209, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion or public testimony?  
Councilmember Kagawa.

Councilmember Kagawa: I wanted Transportation to come up and answer some questions.

Council Chair Rapozo: With that, I will suspend the rules.

There being no objections, the rules were suspended.

Councilmember Kagawa: What are the advantages of going from these three (3) diesel buses to three (3) electric-powered buses? I assume that one is less fossil fuels, but maybe some of the other benefits that makes this a really nice choice.

CELIA M. MAHIKOA, Executive on Transportation: Okay. I am Celia Mahikoa with the Transportation Agency and I have Ben and Kalawai'a here.

BEN SULLIVAN, Energy and Sustainability Coordinator: Ben Sullivan, Energy and Sustainability Coordinator for the Office of Economic Development.

JEREMY "KALAWAI'A" LEE, Program Specialist III: Kalawai'a Lee from the Transportation Agency.

Ms. Mahikoa: We have been partnering with Ben on working through the advantages for the County and proceeding with this initiative, and therefore, I would like to leave it with him with all of the knowledge that he has on this.

Councilmember Kagawa: Just in a nutshell is fine.

Ms. Mahikoa: Okay.

Mr. Sullivan: The short answer to your question, Councilmember, is with the grant funds that we would receive, the total cost of ownership of this bus is certainly lower than the total cost of ownership of the diesel

transit bus. One note that is important in clarifying, the way this is presented to the Council is that the Hawai'i Department of Transportation (HDOT) receiving one million five hundred thousand dollars (\$1,500,000) so that would be split between the three (3) counties, so really it would just be one (1) bus at this point. The transit industry, as best we can tell, are all indicating that this will be advantageous cost-wise over the long-term. There are certainly variables on the shorter term that we are going to have to navigate and some of those were mentioned in the presentations that we sent over to the Council ahead of the meeting. We feel very strongly that this is overall the direction consistent with State and County policy decisions that you and others have made to move away from diesel, to reduce our emissions, and also to affect lower cost service over the long run.

Council Chair Rapozo: Any other questions? Councilmember Yukimura.

Councilmember Yukimura: In terms of lower operating costs, we are looking at easier maintenance; is that correct?

Mr. Sullivan: Yes, so lower maintenance cost versus a diesel transit bus are certainly part of the equation. There is some variability there because obviously the staff has to learn a new technology, so there would be an upfront cost to doing that. The manufacturer does provide training on those buses, but it is not known at this point exactly how much additional training will be required. So lower cost to maintenance. Over the long-term, one of the items that we think is particularly important is the relative cost of electricity versus diesel, so in your presentation on slide 7, we provided information that really just shows a graph of all costs starting at zero in 2018 and the expected deviation of those costs overtime up to 2030 and this is information from a United States Energy Information Administration (EIA) that shows that diesel costs are expected to be forty-eight percent (48%) higher than they are today by 2030, whereas electricity costs from what we hear from KIUC would be dead-flat.

Councilmember Yukimura: Stable?

Mr. Sullivan: Right.

Councilmember Yukimura: Then of course the source of the electricity will be renewable, because of KIUC's good work, versus diesel, which is fossil fuel-based and that will be our contribution to the climate problem because it will reduce our greenhouse gas production, right?

Mr. Sullivan: Correct.

Councilmember Yukimura: Okay.

Council Chair Rapozo: Anyone else? Councilmember Kawakami.

Councilmember Kawakami: Is there a benefit as far as the life expectancy of the bus as well compared to diesel?

Mr. Lee: So the buses that we are proposing to purchase via this grant award is twelve-year vehicles; that is a federal lifecycle. The vehicles that we currently purchase are about three (3) years or one hundred fifty thousand (150,000) miles. So we are basically balancing the equivalent of three (3) of our vehicles right now with the one (1) transit vehicle.

Councilmember Kawakami: That is amazing. Thank you.

Council Chair Rapozo: Any other questions? My only question, Celia, is as far as the union, are we any closer to some kind of agreement? I guess the better question is, do you anticipate any problems with getting these buses on the road?

Ms. Mahikoa: It will be open for us to be negotiating with them again, but it is just working through the details with them and what we are willing to agree to. We believe that we will be fully able to reach a point...

Council Chair Rapozo: The numbers that you provided, the potential increases in salaries; if we agree to that, then the union should be okay?

Ms. Mahikoa: As far as the discussions that we have had in the past that I have seen, yes; that we have been through, yes. We never know if other issues may be brought up in the future, but as far as what we have been made aware of going through discussions in the past, that should be fine.

Council Chair Rapozo: Okay, but we are not going to purchase these buses until we know we can put these buses on the road; correct? This is a twenty percent (20%) match, right?

Ms. Mahikoa: Yes.

Council Chair Rapozo: That is three hundred thousand dollars (\$300,000), right? It is a one million five hundred thousand dollar (\$1,500,000)...

Councilmember Yukimura: But we are getting one (1).

Ms. Mahikoa: Yes, I am sorry...

Council Chair Rapozo: It says a grant of one million five hundred thousand dollars (\$1,500,000).

Ms. Mahikoa: The one million five hundred thousand dollars (\$1,500,000)...the entire amount went to the Hawai'i Department of Transportation for Maui, Hawai'i Island, and Kaua'i, so we are guessing that we are going to get about a third of that, so we are looking at one hundred thousand dollars (\$100,000) to one hundred fifty thousand dollars (\$150,000).

Council Chair Rapozo: So about one hundred thousand dollars (\$100,000). I want to make sure before we spend one hundred thousand dollars (\$100,000) that those buses will run. I do not want to see what happened with the Honolulu buses happen with these.

Ms. Mahikoa: Certainly.

Council Chair Rapozo: I want to see these buses on the road, but if it is just to put them in the garage, then I am going to have a problem.

Ms. Mahikoa: Yes. Thank you.

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: How long before we expect these buses to be purchased and brought in?

Mr. Lee: The grant location has not been given down to the State. We have not had any additional communication with the State about their process. I have reached out to them a number of times requesting follow-up, but the initial estimate was around 2020; that is when we anticipate having the vehicle on island.

Councilmember Brun: Okay. Are we working with the union to make sure that this union contract is in place before we get these buses? I have the same concern about leaving them in the garage.

Ms. Mahikoa: Based on the discussions that we had with them when working through the larger vehicles in the past, the bottom line comes down to driver classifications, and it is just working through the details in that arena as far as what we have experienced up to this point. With that, it is us just committing to additional time partnering with the Department of Human Resources (HR) and at the same time, discussions with UPW. We believe that we could fully work through that together. Everyone is very reasonable when we approach it with all of us with the common goal of implementing an improved service, improved facilities, and improved equipment.

Councilmember Brun: Can we start the talks now and not wait until the bus is six (6) months away and then we are scrambling to get contracts in place?

Ms. Mahikoa: We can always start up discussions with them.

Councilmember Brun: We might as well get them in place so that by the time we get the buses, we know...if we cannot work it out...I guess you folks had that issue the first time where you folks could not work it out and the buses sat. So if we can get this in place first, then getting the buses would make more sense instead of the buses sitting. We can get your folks commitment to work on this first before we order these buses.

Ms. Mahikoa: We can do it at the same time. Unfortunately, these things sometimes take extended amounts of time, depending on what is going on. In the union, as far as what is going on for us, whether or not the different entities have the resources or the time to dedicate to this issue, but we are certainly committed to keeping it on the scope of all of the players involved. I cannot guarantee



the commitment of other individuals or other entities; however, we would certainly be committed to making it happen.

Councilmember Brun: Okay. Thank you.

Council Chair Rapozo: I hope you can appreciate our concern.

Ms. Mahikoa: Certainly.

Council Chair Rapozo: We got the assurances with the Honolulu buses and it never worked out. I am very, very concerned and I am not feeling any better with your responses, Celia, to be honest with you. I appreciate the honesty, but it is making me think even tougher. Councilmember Yukimura.

Councilmember Yukimura: When will we know or how will we know that the unions are in agreement? Is there something that we sign? As I understand it, the collective bargaining agreement requires consultation on something like this. Is it a contract amendment? What exactly is the form of agreement that we need to secure?

Ms. Mahikoa: There are different interpretations of that aspect of the collective bargaining agreement, and therefore, we sometimes come into discussions with differences, but we do our best to work together to get to a positive place. The bottom line in why we did not make...the reason we were not able to work through everything and get to a common ground with the O'ahu Transit Services, Inc. (OTS) buses was two-fold primarily: one was the fact that there were challenges with them maintaining consistent manpower over the three- to four-year period. There were different individuals that we had to pick up the subject and continue the discussions with that occurred four different times. Additionally, the easy way out would have been to simply just offer an additional higher class. However, when we went through the analysis of what the like-pay is statewide for individuals operating these size vehicles, it was determined that the existing pay levels that our drivers are at are equal to those who are currently operating larger vehicles already.

Councilmember Yukimura: My question was, and it should have been settled back then, but what is the form of agreement that you need to have? Is it a written contract or is it a verbal agreement from UPW to confirm that you...I do not care about what the differences are...what is the form of agreement that you have to arrive at? That is my question.

Ms. Mahikoa: My understanding is simply that we need a set up an agreement whereby we have a position that they will agree to, a position level that they will agree to that we will agree to.

Councilmember Yukimura: A position description with pay identified?

Ms. Mahikoa: Yes.

Councilmember Yukimura: That is a Human Resources question and I trust that Human Resources is working with you to do that.

Ms. Mahikoa: Yes.

Mr. Lee: Councilmember, if I may, in working with the HR department, we would have to negotiate with the union and I believe it would be mutual consent because this is an issue that deals with pay.

Councilmember Yukimura: Yes.

Mr. Lee: So we would have to have an agreement with HR and UPW. It would be a mutual consent issue, I believe, and we would have to come up with the classification. Celia mentioned that would define the scope and role of that job class and then provide the proper financing mechanism for it.

Councilmember Yukimura: Okay.

Mr. Lee: So to go back, we do and have had ongoing discussions with UPW to try to get to a point of understanding of all equitability of the implementation of this type of vehicle for the County and for our union members. We will continue to engage with them.

Councilmember Yukimura: So you have already begun the discussions?

Mr. Lee: Just very surface level discussions. Like Celia mentioned, we have a number of issues on our docket with them that we are working through. Some of them have shorter fuses and have taken precedence over other topics. This one is very important to us, so we are now going to really engage with UPW, with their new staff, to be able to reach this topic once again with them.

Councilmember Yukimura: Okay. Do you anticipate going through those discussions and coming to an agreement about the new positions that are required or any procedurals or training that is going to be done? Then getting through those discussions, so hopefully within six (6) to eight (8) months, you have some agreement so you know there is a clear road to making that happen, the whole electric bus happening?

Mr. Lee: The process, via the union agreement, is fairly defined in terms of the time commitments of review for each of our submissions. I believe it starts with a union consultation document that we send over to our Kaua'i Office and then the Honolulu Office gets to make a final determination about that initial phase within a month period of time, unless they request additional time to review and respond. Of course, we are just an operating agency within the County. We will have to defer on many accounts around this type of discussion with our HR Department.

Councilmember Yukimura: Of course.

Mr. Lee: So that would be part of the negotiation timeline and coordinating everybody together to be able to meet and discuss all of these intricate details.

Councilmember Yukimura: If things go well, your timetable for getting to some agreement would be about...

Mr. Lee: Prior to getting the buses.

Councilmember Yukimura: Prior to getting the buses.

Mr. Lee: I am just joking.

Council Chair Rapozo: That is not funny.

Mr. Lee: We will do everything that we can...

Council Chair Rapozo: Well, that is not good enough when you say that you will do everything that we can, because I do not want to see any buses here without drivers.

Mr. Lee: Absolutely.

Councilmember Yukimura: When is the point of procuring the buses? You get approval and you said that you have been trying to get from them a better timetable for how this is going to rollout.

Mr. Lee: We have not received any information from them about that.

Councilmember Yukimura: I think our normal time for procurement of a regular bus is about a year...no, what did you tell me once, Celia? For getting a bus is...regularly procuring a diesel bus, which we have done over and over, that is about how long?

Ms. Mahikoa: Just the contract period is nine (9) months from award to delivery.

Councilmember Yukimura: Prior to that, you have to develop a procurement, or is the DOT doing that for you?

Mr. Lee: The DOT will coordinate with all of us outer counties to get the procurement rolling and finalize that.

Councilmember Yukimura: Okay. So when you sign the contract to purchase the bus, which commits us to the funding thereof, prior to that time, you will have the union agreement? You will not sign that contract to procure the bus prior to getting the union agreement?

Mr. Lee: That is the commitment I hear the Council requesting us to make.

Councilmember Yukimura: Yes, that is the kind of assurance we want. We do not want the committal to buying the bus, which obligates us to buy the bus, before we have the union agreement.

Council Chair Rapozo: I think that is a very reasonable request when you are talking about one hundred thousand dollars (\$100,000). I know that Councilmember Kawakami had a question.

Councilmember Kawakami: Thank you, Mr. Chair. What are the biggest differences between this new electric bus and our current fleet? The biggest difference is one is electric and one is diesel-generated, but we are talking about the difficulty of driving it and the size. What are the biggest hang-ups and challenges with moving from our current fleet to this new bus? I would think that it is an electric bus so it has features and technology that are going to be improved that as the driver, it is going to be a better bus to drive, and as a rider, is going to be a better bus to ride in. So what is the hang-up? What are the biggest differences?

Mr. Lee: Some of the bigger challenges that we are going to face have to do with our facility, so when it comes to the operation of the transit system, our facility is undersized for our existing fleet needs. So that is one of the major issues that we are going to have to face when we deal with the planning aspects of moving towards a transit-style fleet and a battery electric fleet, so it is going to take additional space to house the infrastructure. For charging, it is going to request additional space for the actual parking stalls of the vehicles. From an operator standpoint, like you mentioned, these are transit buses, the cockpit is made for driver room, so it is ergonomically fit, but some of the challenges that they are going to face is they are used to driving smaller vehicles and they are going to have to get used to the turning radiuses and used to the way that the vehicle moves down the road. Like Ben mentioned, that is a core component of moving towards us is that training aspect for our team both in mechanics and in our driving crew staff.

*(Councilmember Kagawa was noted as leaving the meeting.)*

Councilmember Kawakami: Are we looking at a bus that is more the size of a yellow school bus? What are we looking at? What is the biggest difference? Please make it visual for me so that I can understand.

Mr. Lee: Sure. So our largest vehicles in our fleet from bumper to bumper is about thirty-five (35) feet right now. We are talking about a forty-foot overall vehicle, so about a five (5) feet difference between the overall length. Width-wise, it is just a little wider, too. I think we have an eight and a half (8.5) feet vehicle. These are nine and a half (9.5) feet, I think.

Councilmember Kawakami: I am fairly confident that you folks can go and negotiate something with UPW, considering that we are all in this together. When it comes to climate change and the steps that we need to take is in pilot state, seeing increased storms and rising sea-levels. I think that has to be a big scope of "this is everybody's *kuleana*." I know that it is almost hard to negotiate here on the Council table and say that we demand to have a contract signed because that gives leverage to the union to say, "Look, we can bump up those numbers." We have to be cognizant about what we say around this table, too. At the same time, I hope that you are working earnestly to figure out how much this is going to cost. If it is going to be a classification, how much is it going to cost? How it is comparable county-by-county with other bus drivers and what they are getting paid? What are the ramifications

down the line when we move towards one hundred percent (100%) electric fleet down in the future? The cost analysis has to be done. Let us start by seeing what those numbers actually are and work from there.

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: Is approval time-sensitive?

Ms. Mahikoa: We would need to know by the time DOT decides to proceed with the forwarding of the funds and procurement. They mentioned wanting to proceed by the end of October, possibly November. So that is what we would see as the timeframe that we are working within.

Councilmember Brun: My other question was, so these buses that we are going into, we have this whole thing with contracts now and UPW drivers and stuff; is this the best possible route if we are going through these buses, being that everything else now is involved? Is this the best possible solution or the best possible buses that we can go into?

Ms. Mahikoa: You mean going towards electric?

Councilmember Brun: Electric, bigger buses. Because now we have to deal with the union with drivers for bigger buses. Is that union because they are driving electric buses?

Ms. Mahikoa: I believe the issue is driven by the fact that it takes an added requirement on a driver's license for the air break endorsement is what has been mentioned as the trigger in the past. Regardless of whether it is electric or diesel, we would still be in the same arena as far as discussion on qualifications required for operating the vehicle, as far as our experience so far going through discussions on what would make it acceptable to all parties.

Councilmember Brun: Another question, and I heard it earlier, is so we are approving this to get a bus and we heard that it is going to take more facilities. What is our total cost? This is going to cost us one hundred thousand dollars (\$100,000), but what is our total cost? Where are you folks going to move? The facility is not big enough. What is going to be our total cost out of getting this? One (1) bus for now, three (3) later on. We are still going to be running diesel buses. Do we have to get another five million dollars (\$5,000,000) to pour in to get a new place? I think there is a lot of unanswered questions. We are all not against the bus or not against electric—yes, we want to go there, but what is our total cost to our taxpayers on going towards this? For now, we are only going to need one (1) bus, so are we going to spend five million dollars (\$5,000,000) for one (1) bus? That is a lot of unanswered questions right now. Yes, we can spend one hundred thousand dollars (\$100,000), but we still cannot charge this bus and we cannot house this bus. So what is our overall cost that is going to cost us to get this one (1) bus running?

Mr. Sullivan: Councilmember, I appreciate your question. The information that we sent over was an attempt to provide you with as much cost information as we felt we could provide. I think what we also attempted to articulate in the material that we sent over is that there is a lot of uncertainty and that

uncertainty comes with electric buses, it also comes with diesel buses. If you noticed, and I will reference the slide that talks about the future cost of diesel, a forty-eight percent (48%) increase in the cost of diesel by 2030 is going to impact our operations substantially. However, we do not know how that is going to compare in 2030 to some of the other variables. In the report, there is a reference, and I apologize because I realize that you probably did not have a chance to read it because you just got it, but there is a reference to the falling cost of bus batteries. So we anticipate that over time, the cost of these buses is going to continue to trend downward. I think what we are trying to present today is that we believe that based on the information that we have, that the trends indicate that this will be a better option financially for the County over the long-term, but there is definitely not certainty where we can provide you a calculation that shows all of those costs. I would defer to the yard cost and the size of the bus to my colleagues because obviously, they handle operations, so I am really just speaking to the energy side and to the technology side. Does that help?

Councilmember Brun: For me, it is not a question of if is this is better for us in the long-term because we all know that this is better for us in the long-term. We are going to save a bus three (3) years...twelve (12) years...common sense we are saving, right? What is the initial cost that it is going to cost us to get this thing running? We are going to have to find the money somewhere to get this thing running. I look at how much this will cost so that we are not surprised by it in three (3) months when you folks come and you folks need four million dollars (\$4,000,000) to get this thing going. So just something like that would be good to know if you folks need a new space. There are a lot of questions out there right now.

Mr. Sullivan:

Sure.

Mr. Lee: If I could just summarize what you said, you are asking us how much it is going to be to get the one (1) bus on-island operational—the cost is inclusive of what we are asking for right now. Part of the cost is going to be allocated towards planning and design of our system, growing from where we currently are, transitioning to transit vehicles, and then also to battery electric vehicles or other renewable fuel type of vehicles. We realize that we are taking two major conceptual shifts from where we currently are. We do not take that very lightly and we are going to do our best to be able to do planning properly. At that point, when we have more information and data from the use of the electric vehicle that we are proposing to procure now, we will be able to provide much more detailed information to you folks about how we need to change our operational stance to fit the trend of moving towards battery-electric vehicles.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: So you are saying that the amount that we are going to get will cover our basic costs for bringing onboard and utilizing one (1) electric bus?

Mr. Lee: Yes, that includes the consultant fees, the charging infrastructure/construction, the purchase of the vehicle, and all of the nuts and bolts that bring a vehicle to Kaua'i for operation.

Councilmember Yukimura: Okay. Good. Thank you. Ben, you were saying that...I guess already the point has been made that the twelve-year life versus the three-year life is very significant, but also the energy costs can also be a savings into the future because if diesel goes up forty-eight percent (48%) and electricity remains at a stable price, we will be preventing a significant cost increase in operation.

Mr. Sullivan: That is correct.

Councilmember Yukimura: Okay. Very good. Thank you.

Council Chair Rapozo: Any other questions? I just want to make sure that I heard you correctly—first of all, you said that there are all of these entities that we have to come to an agreement with; who are the entities besides the union that we have to work with?

Ms. Mahikoa: When I mentioned entities, I was just meaning our agency along with the union and HR helping us, all of us partnering up together to get it done.

Council Chair Rapozo: Then I heard one of you say that we have to mutually agree on this or is it a meet and confer? As far as I know, we have to consult with the union, but at the end of the day, we make the determination of what we are going to do. If you are saying that the pay that we pay our drivers today are equivalent to drivers in other counties that drive bigger buses than what we are getting, why would we not move forward and let the union grieve? If, in fact, what you are saying is true...I guess my concern is that we cannot let the union dictate. If we are going to move forward, then let us move forward. If what you are saying is true and that the bus drivers today on Kaua'i are getting paid...remember, we need to pay and compensate our drivers fairly. I am not saying that we are going to undercut, but if they are already getting paid higher than what their colleagues on the other islands are and it is the same...you talked about an air brake...I understand that is a new different endorsement on the license...so that may...I do not know because I have not checked, but my bigger concern is you say that we have to mutually agree on this before we can move forward? I do not think that is true. I think we meet and confer, we consult and try to negotiate. At the end of the day, we make the determination and if they feel that it is unfair, then they grieve. I really would want to see HR here so they can give us their input on this because to me that is pathetic if that is how it works. I do not know if you can answer that. It sounds like it is not time-sensitive that we have to approve today. I would love to see this in the committee. We can have HR here. I would love to have the union here...I would love to have UPW here to explain to us what is stopping them from agreeing? It is baffling to me on how we are making this so complicated. This first came up how long ago, Celia, and I asked you to please work with the union before we got to this point and I do not know how many times...how many discussions you have had with the unions since that point? I do not know. Have we had any since this thing first came on our agenda?

Ms. Mahikoa: When this is on, because we had been through so much already...

Council Chair Rapozo: With the Honolulu buses? This is a totally different animal. Have we met with the union regarding electric buses?

Ms. Mahikoa: Regarding this one, they have been notified that we are proceeding...I am not saying that it is a formal notification.

Council Chair Rapozo: So we have not even officially started that process yet?

Ms. Mahikoa: No.

Council Chair Rapozo: I am concerned. I really am. We have not even started that process.

Ms. Mahikoa: Yes, we will proceed if we deem it practical upon being approved receipt of the funds. I am sorry...

Council Chair Rapozo: No, do not apologize, I appreciate your strategy. My strategy is a little different. My strategy is to at least be on the same field before we start approving one hundred thousand dollars (\$100,000) or whatever this thing is going to cost, because I know the costs will go beyond...I think as what Councilmember Brun said, you know it is going to go beyond what we have in this specific request. Councilmember Yukimura.

Councilmember Yukimura: So you are saying that you have been waiting for this approval so that you can actually move forward. I think that is legitimate, so I really would like to see this thing approved. I do have another question—you folks were really proactive in getting a demonstration electric vehicle down here and was on display at the Mayor-A-Thon. I think you ran it around the town, too, and I had the privilege of going on one of those buses and seeing the public reaction, but I would like you to tell us what the general public reaction was and whether some of your drivers were able to look at it, too, and what kind of reaction you got from them and your maintenance people who got to look at the internal workings of an electric. Can you share that with us?

Mr. Lee: That was one of the core things that we were trying to accomplish is to get feedback from the community. So for the people that did get on the vehicle and ride it, they decided that it was a great vehicle, much more comfortable, much more spacious, quieter...

Councilmember Yukimura: Not so bouncy...

Mr. Lee: They liked the vehicle and from a mechanic standpoint, I think that there is a lot to learn about getting the vehicle on-island. There are very practical, mindset thinking folks on our team and they want to know everything about the vehicle. So I think they got a quick look at it, but they really dig in and understand that that will be part of the procurement, the training portion for both our drivers and mechanics. Our drivers love the vehicles, too. I think it takes practice to feel confident and comfortable in a vehicle of that size, but once they do or people that are familiar with driving that size of a vehicle, it is made for them so it is much more of a comfortable driver position for them.



Councilmember Yukimura: You mentioned that the driver's part is ergonomically built. I know I heard some complaints about the smaller buses that the drivers are sometimes scrunched in there and it is hotter so they put the air conditioner higher and sometimes the passengers freeze. They are much more stable buses because they are larger, so when I rode it, it did not seem to bounce around or shutter as much.

Mr. Lee: If you are speaking about the way the chassis operates on the street, the vehicle is intended for public transit use. The vehicles that we currently operate are trucks that are converted to fit in a transit application, so everything from ground up, these transit buses are designed for the particular purpose of operating public transit. As a result, I think in all aspects that we just discussed, it is more fitting for all people involved.

Councilmember Yukimura: Can you explain about the steps up to the bus for the people with disabilities?

Council Chair Rapozo: Hang on, nobody is disputing the quality and the comfort of the bus. This is the funding. Regardless of how comfortable this bus is, if it is not on the road, it is not comfortable to anybody. I think that is the question that I am hearing. No one is disputing the fact that this bus is a great bus. I think that goes without saying. We know the bus is great. We are sold on the bus, it is just that we want to make sure that when the buses come, someone will be able to drive it.

Councilmember Yukimura: Chair, I know that was one of your questions, but I also heard a question saying, "How did these various constituencies of the bus react?"

Council Chair Rapozo: He answered and he said that they love it: the mechanics love it, the drivers love it, and the public loves it.

Councilmember Yukimura: I am talking about people with disabilities.

Council Chair Rapozo: Okay, do they love it?

Mr. Lee: We did not have anybody onboard, Chair, to my knowledge that...

Council Chair Rapozo: Okay. Was that bus that we had equipped with the disability lift, the one that we tried?

Mr. Lee: There is a new vehicle that has a ramp that deploys automatically and there are wheelchair positions on them so it makes it an Americans with Disabilities Act (ADA) accessible vehicle.

Councilmember Yukimura: I actually saw the bus tilt, "kneeling," I guess you call it, so it was a much faster way of being assessable instead of having the ramp go out or whatever happens. It was just a much more efficient way of getting the people with disabilities on and off.

Council Chair Rapozo: This will probably save us in the claims department.

Councilmember Yukimura: Yes, it will probably save us in the claims department and much less trouble for the bus driver, too.

Mr. Lee: Yes.

Council Chair Rapozo: Any other questions? Councilmember Kawakami.

Councilmember Kawakami: Thank you. Just the fact that if we are going to require some kind of agreement to be hinged on our decision to approve this is actually letting the union have leverage and basically hold this up. It is whether or not we believe this is a good thing or not. We are going to have an electric bus. Eighty percent (80%) of the funding is coming from outside sources. The longevity of this bus is three (3) years for diesel versus twelve (12) for this new bus. It is going to help modernize our workforce and I think it is a good thing. I think as negotiators, we have to do a better job, and saying that we are going require some sort of agreement prior to purchasing the bus is, in my opinion, saying it on the public forum not good negotiation. Some of the tools that we can use is can we utilize an 89-day contract while we get to some sort of agreement? Is that one way that we can ensure that the buses are running? It is not popular, but if this thing is going to go through a grievance and a binding arbitration and we want to get those buses out on the street, what are the tools we can do to get them out on the street? I think it is a good investment. I am not going to let my decision be hinged on an approval because that may or may not happen, we may run out of time, and we may run out of that money, like we have in the past. We left free money on the table. This is an eighty percent (80%) match for modernizing our fleet for achieving our sustainability goals. For me, I will reach out personally with the union to hear what they are hung up on to see what it is or where we can find some middle ground, but I would not want to see this opportunity evaporate just because we are hinged on some agreement when there are other ways within our tool box to ensure that those buses can be running. Thank you, Mr. Chair.

Council Chair Rapozo: I agree with that, but that is kind of what I want to hear from the Administration. I want to hear a commitment from the Administration that, in fact, there is...that is why I suggested...if we believe that we are paying our people fairly...I saw HR walk in so we will get to talk to her in a little bit, but I do not believe that we have to mutually agree. Councilmember Kawakami is absolutely correct—if we have to mutually agree, then they have the leverage. We have to pay these folks whatever they say. But if we, in our analysis, believe that our drivers...this applies to any employee in any union that we move forward. We do the consultation/negotiation, but we are not subject to them saying, “Yes, now you can go and get an electric bus.” But we have to make that commitment because we have been down this road before, Celia; you know we have. I asked that specific question with the Honolulu buses, “Are we going to run into problems with the unions?” “No.” “Are we going to run into problems with...” “No.” “Everything is good” and those buses never saw the light of day. We took three (3) of Honolulu’s trash and we had to dispose of it because we could not get it. I lived this and I have been through this,

so all I am asking is a commitment that we are going to make it happen and we will have Janine come up because I am dying to find out if, in fact, we have to get the union's agreement. I do not think that is how it works. We will bring Janine up because I definitely want to clarify that point. If that is the case, then gosh...

JANINE M.Z. RAPOZO, Director of Human Resources: Good morning.

Council Chair Rapozo: Thank you for running over, Janine.

Ms. Rapozo: I am out of breath, but that is okay.

Council Chair Rapozo: If you are not prepared to answer this, then that is fine. The question is really...the statement was made that we have to mutually agree on this arrangement if we decide to go into electric buses. What is our position on that?

Ms. Rapozo: Good morning, Janine Rapozo, Director of Human Resources. There is a section in our contract called a "105" with the UPW. It is consult or mutual consent, "The employer shall consult the union when formulating and implementing personnel policies, practices, and any matter affecting working conditions. No changes in wages, hours, or other conditions of work contained herein may be made except by mutual consent." How we have interpreted that is anything that we have already bargained for in the contract, we would have to mutually consent, because we have already bargained for that. Anything outside of that, we would just do...

Council Chair Rapozo: Can you read the second paragraph about the requirement for mutual consent?

Ms. Rapozo: "No changes in wages, hours, or other conditions of work contained herein may be made except by mutual consent." So I believe with the electric buses, they are going need an air brake endorsement. So for some of the bus drivers who were hired without that, if they cannot get that endorsement, it is going to be a change in their working condition.

Council Chair Rapozo: We still have diesel buses.

Ms. Rapozo: Yes.

Council Chair Rapozo: Do we have drivers with air brake endorsements?

Ms. Rapozo: No.

Council Chair Rapozo: None? Zero?

Ms. Rapozo: They may have it, but it is not required for the position currently. We can try to be creative with the union and say that we have a different classification of bus drivers that would have the air brakes, but it would be at the same price, because currently the pricing for the school bus drivers with the State is at the same level.

Council Chair Rapozo: I do not know if you were listening, but that is what my concern was earlier. Celia said that our bus drivers are getting paid at that same level, so I do not understand why we would have to mutually agree.

Ms. Rapozo: If we are using the same classification, then all of the drivers would have to have that endorsement. Some of them may not have it yet and they may not be able to get it. At that point, you are changing their conditions. It would be something that I am not sure if people cannot pass that test or whatever or if she changes her fleet where half is electric, half is this, some of them need the air brake. There are different ways to do it, but it would be working with the union to get to that point.

Council Chair Rapozo: Councilmember Brun.

Councilmember Brun: For now, you would not require all bus drivers to have air brake...if you are only going to get one (1) bus, you are only going to need three (3) drivers and four (4) drivers to get certified, right?

Ms. Rapozo: We can do the classification in a way that says endorsements as required and each specific position could be done differently, depending. I believe that she does it where they have to sign up every twelve (12) weeks for their schedule, so it may not be that particular bus. I guess she would have to set up a different schedule for that person who would do the electric bus because that person would be in a different category, because if not, you would not know who would have to have that endorsement.

Councilmember Brun: Do you see any issues with us trying to get this contract in place? Do you think it is going to take us more than one (1) year to work with UPW to get this done?

Ms. Rapozo: We have a hard time with getting mutual consent items with UPW. It takes a while. I am not sure if it is going to take longer than one (1) year. I hope not though. We can try to make sure that we are on them. We have had other issues that have taken longer and we have others where it does not take as long. I guess it depends on how the members feel as well, whether or not they are okay with it. Then there would be no reason for the union to be against it.

Councilmember Brun: We got buy-in from the drivers and from the mechanics. Hopefully, they work a little faster and get this done. I just want to get this contract done before we get the buses.

Ms. Rapozo: Yes, understood.

Councilmember Brun: Thank you.

Council Chair Rapozo: Janine, have you had any discussion with UPW regarding this specific electric bus acquisition?

Ms. Rapozo: No.

Council Chair Rapozo: Not at all?

Ms. Rapozo: No.

Council Chair Rapozo: Councilmember Yukimura.

Councilmember Yukimura: The bus drivers, if they can get that endorsement, then it should not be difficult for most of them, would it then be at a higher pay level?

Ms. Rapozo: No.

Councilmember Yukimura: They would not? Okay.

Council Chair Rapozo: Any other questions for HR? Thank you very much. You have cleared it up for me anyway.

Ms. Rapozo: Thank you.

Council Chair Rapozo: Is there anyone in the audience wishing to testify?

BRUCE HART: For the record, Bruce Hart. This is simple. One of the things that was an answer that I would really like to know is I wish there was an expert here that could tell us just what is required to be certified for air brakes. From what I know, it is not a big hurdle. Thank you.

Council Chair Rapozo: Anyone else? Seeing none, I will call the meeting back to order. Any further discussion? Councilmember Brun.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Brun: Thank you, Chair. For me, it is not whether I am going to approve this, I will be approving this today, but I guess a couple of questions that I have is...I think it was said that all that is worked into this price of our extra charges, but I just want to know upfront if we are going to get anymore hidden costs to do the station, to do bigger facilities. If we could get that over from Transportation and send us that so that we are not blindsided when you come in for a million more dollars to get this thing going. I just hope that we work hard...we have HR here, Transportation, and UPW...let us get this thing in place before we buy these buses. I just hope that we can work this out before the buses come in and the buses are not sitting and waiting, because it is no use to anybody. That is all of the concerns that I have and I have no issues with approving this today and hopefully before we sign that contract to buy the bus, we get this union stuff in place. That is what I am kind of worried about is that we want to make sure our drivers can drive this bus and they are allowed to do it. So figure out a way...whatever it is, figure out how we can get these buses driven before we get the buses in. Thank you.

Council Chair Rapozo: Councilmember Chock.

Councilmember Chock: Thank you, Mr. Chair. I will be approving this as well and I think we have gone down the road where the application is already in place, so eighty percent (80%) of a bill is being taken care of and it moves us in the right direction. I appreciate the question because we want to feel confident. That is what the whole discussion back and forth has been and we can get that from our Administration, regardless of the obstacles, which we know there are. It is really a matter of just moving forward, so I want to see that occur and what that requires for me is really sort of like, "Hey, we are going to approve it. Let us move forward and get us the plan and what the total cost will be." Regardless of what the union's obstacles are, let us make sure it happens. Thank you.

Council Chair Rapozo:

Councilmember Kaneshiro.

Councilmember Kaneshiro: I met with Transportation last week, so I was pretty comfortable with it. Even in that meeting, I expressed the same concerns that we have here about negotiations with the unions, what are our future costs, and what is the benefits of the bus. For me, I am comfortable with it. Obviously having a bus come that we cannot drive is my biggest concern, which I think is everyone's biggest concern. I think the fortunate thing is that it is a little different than used buses from O'ahu. This will be a brand new bus. I think it is going to take at least two (2) years before it even gets manufactured and comes here, but for me, I guess my contingency plan would be if we cannot get all of these negotiations done, then we sell it back to an island for what we bought it for to use on their island. That would be the worst case scenario, but I would really love to see the bus come and I would really love to see us utilize it. It is a bigger bus and they are going to be incorporating it into their transportation plan, they are going to be using it for the longer routes, which people will be on the bigger bus and can fit more people and will be a longer route rather than these short routes that the shuttle bus go through smaller streets. I think it will be a good thing for the island in the long run if we can make it work. That is why I am willing to support it now and see how it goes.

Council Chair Rapozo:

Councilmember Kawakami.

Councilmember Kawakami: Thank you, Mr. Chair. That was a great discussion. I, too, will be supporting it. The union is willing to work. I think it is just the respect of reaching out to them and beginning the conversation to find out where we are at with the issue. I really believe our bus drivers are underappreciated. They are not just professional drivers, these guys are solving our traffic problems out there and now potentially going to be solving an environmental problem and challenge. So I think when we appreciate our workers and let them know that they are appreciated and what they really are, they are more willing to come to the table. I really think it is the way that we pitch it to them that they are a bigger solution to this problem that we are trying to address, that they are not just drivers, they are solving traffic and now potentially an environmental issue as well. Thank you, Mr. Chair.

Council Chair Rapozo:  
Yukimura.

Thank you. Anyone else? Councilmember

Councilmember Yukimura: I think this issue before us, this grant before us is an incredible opportunity for the island. Our General Plan says that we have

three (3) goals: we want to be unique and beautiful, we want to be sustainable, and we want to have an equitable society. The bus system addresses all of it. It really does help us stay more beautiful because we are not as reliant on the single-occupant car. We know that in order to be sustainable, all of our systems, whether it is Solid Waste, Water, or Wastewater, and our transportation system has to be more sustainable. This electric bus is definitely going to be moving us in the right direction where we are replacing diesel with electricity that is created from renewable energy sources. It is going to give us more capacity. For example, the Boys & Girls Club, the kids from Chiefess Kamakahelei Middle School every day after school have to come here to the Līhu'e clubhouse, so there are forty (40) kids getting into a bus with others, so the capacity is really an issue. It is more comfortable, has less maintenance cost, lower operating cost, and so many ways, it also helps our families save money when they can use the bus instead of having three (3) or four (4) cars per family. We have to step ahead and this is the beginning. It is not only giving us the bus, but it is giving us the charging stations that are going to be a really key part of the new sustainable infrastructure that we need to create for a sustainable bus system. The bus drivers are such an important part of making this bus system work and they are really proud of their system in what they are doing, so I am sure that there will be a way to come together on this, because it is about being good for all of the community.

Council Chair Rapozo:                      Anyone else? I will just say that I actually feel better that we have not started. I wish we had, but it is probably more promising in my mind that we have not started the discussion with the union because at least we do not know of any obstacles yet. I am optimistic that we can. I was under the impression because we had requested and the message I got from the last couple of meetings was that we had been in communication with the unions and that there were obstacles. I guess what that meant was in prior, with the old bus, the Honolulu bus, which is a good thing because I think the union would be willing to work. I guess I just misunderstood what was being said. I know that Councilmember Kaneshiro said that this is different with the new buses versus the Honolulu buses that we got, but the buses are different but the process is still the same. We still have to go through the same process with the UPW. Hopefully, we are working on that relationship and we can make that happen. I hope that we are not trying to get this done without adequately compensating the drivers. I said that earlier today that we need to be paying these people fairly that if it does require a higher skill level that the compensation reflects that. To me, I think that would be the union's biggest argument is that if we are trying to undercut the salaries or pay of the drivers. We will see how it goes. Again, I would agree with many others that we should never sign a contract unless we know when those buses arrive, we will have drivers to drive them. We have seen it before and it is not pleasant to just see buses sit in some lot. These are not gas or diesel engines, this is electric. What do you do? Do you start up the electric car every morning like we did with the gas buses or the diesel? I do not know. Anyway, the motion is to approve. Any further discussion?

The motion to approve C 2018-209 was then put, and carried by a vote of 7\*:0:0  
*(\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.).*

Council Chair Rapozo:

Next item, please.

C 2018-210 Communication (09/06/2018) from the Director of Economic Development, requesting Council approval to receive and expend funds from the Workforce Development Council for County Sector Partnership Engagement, in the amount of \$15,000.00, for staff time for planning, executing, and supporting sector partnerships, travel, facility rental, and other administrative costs, which includes support for organizing sector partnerships via the Kaua'i Economic Development Board following the Comprehensive Economic Development Strategy (CEDS): Councilmember Chock moved to approve C 2018-210, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-210 was then put, and carried by a vote of 7\*:0:0 (*\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.*)

Council Chair Rapozo: Next item, please.

C 2018-211 Communication (09/06/2018) from the Fire Chief, requesting Council approval, to accept a donation from the Kaua'i Lifeguard Association (KLA), of two (2) Solar-Powered Public Address (PA) Systems, for a total value of \$9,152.00, which will outfit the new Po'ipū Beach Park "Nukumoi" tower and Salt Pond Beach Park tower, similar to the system installed at the Pine Trees tower in Hanalei: Councilmember Chock moved to approve C 2018-211 with a thank-you letter to follow, seconded by Councilmember Brun.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-211 was then put, and carried by a vote of 7\*:0:0 (*\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.*)

Council Chair Rapozo: Next item, please.

C 2018-212 Communication (09/12/2018) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds, in the amount of \$114,635.00, from the Fiscal Year (FY) 2017 Edward J. Byrne Memorial Justice Assistance Grant (JAG) Sex Assault Prosecuting Unit (SAPU), and approval to indemnify the State of Hawai'i, Department of the Attorney General, for the Sex



Assault Prosecution Unit, for the period of March 1, 2019 through August 31, 2019 (subject to change due to available funds), to continue the Sex Assault Prosecution Unit, which will consist of a 0.90 Full-Time Equivalent (FTE) Special Prosecuting Attorney and fringe benefits: Councilmember Kawakami moved to approve C 2018-212 with the revisions and provisions contained in the Office of the Prosecuting Attorney's memorandum dated September 25, 2018, seconded by Councilmember Brun.

Council Chair Rapozo: Any questions or discussion? Public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-212 with the revisions and provisions contained in the Office of the Prosecuting Attorney's memorandum dated September 25, 2018 was then put, and carried by a vote of 7\*:0:0 (*\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.*).

C 2018-213 Communication (09/12/2018) from the Prosecuting Attorney, requesting Council approval to apply for, receive, and expend Federal funds in the amount of \$73,884.00, from the Fiscal Year (FY) 2017 Edward J. Byrne Memorial Justice Assistance Grant (JAG) – Drug Nuisance Abatement Unit (DNAU), and approval to indemnify the State of Hawai'i, Department of the Attorney General, for the period of December 1, 2019 through August 31, 2020 (subject to change due to available funds), to continue the Drug Nuisance Abatement Unit, which consists of a 1.0 Full-Time Equivalent (FTE) Special Investigator and fringe benefits: Councilmember Kawakami moved to approve C 2018-213 with the revisions and provisions contained in the Office of the Prosecuting Attorney's memorandum dated September 25, 2018, seconded by Councilmember Brun.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-213 with the revisions and provisions contained in the Office of the Prosecuting Attorney's memorandum dated September 25, 2018 was then put, and carried by a vote of 7\*:0:0 (*\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.*).

Council Chair Rapozo: Next item, please.

C 2018-214 Communication (09/12/2018) from the County Attorney, requesting authorization to expend additional funds up to \$10,000.00 for Special Counsel's continued representation of the County's interests as Bond Counsel for the issuance of General Obligation Bonds (2017 Series), and related matters.

Ms. Fountain-Tanigawa: Did you want to take the Executive Session first, Chair?

Council Chair Rapozo: Yes, we will deal with ES-966 and then come back to this item.

Ms. Fountain-Tanigawa: Okay.

C 2018-215 Communication (09/14/2018) from the County Attorney, requesting Council approval of an Adopt-A-Park Agreement for the Stewardship of Wainiha Beach Park, Tax Map Key (TMK) No. (4) 5-8-006:030: Councilmember Chock moved to approve C 2018-215, seconded by Councilmember Brun.

Council Chair Rapozo: Any discussion or public testimony?  
Councilmember Chock.

Councilmember Chock: Mr. Chair, I have some questions.

Council Chair Rapozo: For the Attorney or for Parks?

Councilmember Chock: I am not sure, it might be for Parks.

Council Chair Rapozo: Okay. Let me suspend the rules. When Mauna Kea comes up, that means something is up.

There being no objections, the rules were suspended.

Mr. Trask: The Director of Parks & Recreation is here and he can talk about it. If you have any legal questions, I drafted and worked with him on the agreement itself.

Councilmember Chock: Thank you, Mr. Chair. I have been following this a little bit, so I appreciate the time, but I wanted to just get a sense because the Stewardship Agreement has already been signed. Correct?

Mr. Trask: By the Administration.

Councilmember Chock: But this is part of that process for us on this side?

Mr. Trask: Like every other agreement, yes.

Councilmember Chock: I just was not clear, as it was posted. We also have the Adopt-A-Park Agreement. My question is really about process as to what comes first, the Stewardship Agreement followed by Adopt-A-Park and what the differences are.

Mr. Trask: For the record, Mauna Kea Trask, County Attorney. So starting about 2009-2010, the Mayor approached the Office of the County Attorney and he said that I want to work with the Hawaiian community. At the time, the big thing was Kāneiolouma. Uncle Billy and Uncle Rupert had been down there for years taking care of that area. It was on County property, so we looked at it. I found out that largely mirroring what the State does at their level with their stewardship agreement and in trying to make it work within my office, or when I was a deputy at the time, it was novel to work with the Hawaiian community to take care of these cultural areas so I found a way to do it. In order to make that work, you take the existing Adopt-A-Park Agreement, which is an administrative matter, and then you add other duties and responsibilities well within the Director of Parks & Recreation's authority for the stewardship of it, like what the State does on their property. The Council clearly has the ability to grant this, but unlike a normal Adopt-A-Park that you give to the Lions Club or any other group to clean tables and paint areas, this is more substantial, so it needs Council approval. In all of these agreements, what we have done is it is all for—it is the same form as any other one you have entered into. I think you have about five (5) or six (6) at this point—but the Administration signs off and it comes to you for approval. That is it.

Council Chair Rapozo: Real quick, so this is not just an Adopt-A-Park? This is actually a stewardship agreement?

Mr. Trask: It is a stewardship agreement. The formal title is an Adopt-A-Park Stewardship, an Adopt-A-Park Agreement for the Stewardship of this area, as opposed to a normal Adopt-A-Park, which was done in this case with one (1) member of the community, Wayne "Palala" Hirada. With the recent events this past year and the disaster, the community is energized. They are looking at resiliency options and working a lot in the area, whereas before we have discussed this idea, the timing was not right, but now the timing is right and they stepped up and they want to do this so it is a great opportunity for everybody.

Council Chair Rapozo: Okay.

Councilmember Chock: Thank you for that clarification. Just for the record, I am very supportive of the direction of this. I know that the community has done a lot of work in the last few months since the flood to support this direction and I think it will help it in many ways. I had a chance to go out there and actually meet with the stewards and also there are other concerns as well and I just wanted to get a sense from you, because part of the concern is the need for this survey to occur on the property, which would determine some oversight questions. I guess the question is really what comes first: survey or Stewardship Agreement? Are we committing to the Stewardship Agreement, we do the survey and it determines what areas are for this group; or should we do the survey prior to the stewardship agreement is the question that starts to come up for me?

LEONARD A. RAPOZO, JR., Director of Parks & Recreation: For the record, Director of Parks & Recreation, Lenny Rapozo. From 2009, we have cleared that area of negative environmental things that were going on. Before we went in and cleared with the County at the time, we did have a surveyor and we did map out where our County boundaries are. There are three (3) properties as you enter into

this area, as you are entering in on the *makai* side of the ocean, there are three (3) properties there and then the County properties encompasses everything else including the river up until the double bridges. We have staked it out once before, but to help in the current stewardship agreement, we were just talking about it. We would be willing to redo it again. Mauna Kea has a picture of that.

Mr. Trask: We do not think that it is mutually exclusive. The County has not had a surveyor since Oscar Portugal left, at least five (5) years ago. The community is ready now, and in working with the community, to do it correctly, you really have to let them lead the process and follow their lead. This is the area that we are talking about. These are the single-lane bridges in Wainiha. This entire twenty-three point six zero six (23.606) acres is County. These lots right here are not and these lots right here are not. So the County area is to the exclusion of these seven (7) properties here. There are questions about these. This was taken between 2014/2016. As you know, the County's metes and bounds are not current online, but there has been erosion here...there is some information. Where are these located in relation to the shoreline? That is what this survey can show, but in the meantime, like you have been there, Councilmember Chock, you know that there is a lot of debris in this area now. There is a lot of work that needs to be done now and there are rains that they continue to come and the community and the County want to work together to address this now. So one should not be the derivation of the other; we need to do it all. If you want, I can go briefly how we got here as far as land history and stuff. I am prepared to do that as well.

Council Chair Rapozo:

Councilmember Yukimura.

Councilmember Yukimura: I am in favor of having a Stewardship Agreement. I have some concerns about the details of it and there are three (3) things: one, it says that Hale Hālāwai is a temporary sponsor and I want to know how temporary, what is the transition to whom, and how long does this temporary condition occur? The other, which is even more important to me, is the Condition No. 16 under Steward's Responsibilities, which is the insurance policy. I know we had a lot of trouble. It was not with the Stewardship Agreement, but it was with a lease that we had in Solid Waste with the minimum amount of insurance and I am concerned functionally about who checks and makes sure that insurance is current, because we incurred a two million dollar (\$2,000,000) liability because we did not check on that. The terms of the agreement says that it is renewable for ten (10) years, but if any party wishes to terminate the agreement at any time, written notice shall be given to the party. I guess it is implied that that will terminate the agreement, but it sounds like written notice could be the intention to terminate and I do not know if that really terminates the agreement, but that is very unclear to me.

Mr. Trask: On those questions, your first two questions actually relate to each other. Like we saw in the Kīlauea Agricultural Park, when the community wants to get together to work with the County, they often have the energy and the timing is right. Sometimes, they have not had in the past. They have not been incorporated under the Federal and State laws for nonprofits. So you can have a group of well-meaning people, who in this case, have been dealing with successive disasters since April, who do not have the tax exempt status. Now, the County does not have to work with only nonprofit groups, but for the insurance purposes, we need a policy to protect the County and that is something that, as your

attorney, I advocate for. That is why Hale Hālāwai has graciously stepped in and its Chairperson, Mina Morita, is the signatory to the front of the page. Their Executive Director is here, Katie Conant. They are providing the temporary sponsorship to cover the insurance processes to assist the community with the bookwork you need to do, reporting, cost-tracking, and all that type of things. There is white-collar and blue-collar aspects to this agreement. Hale Hālāwai has graciously volunteered to take care of the white-collar currently to and until the *hui* gets together and it does incorporate, which does not necessarily take too long...I think it took the Kilauea Agricultural Park folks...I forget their name right now...but maybe one (1) year or so to go get it, and then they take over. We have not seen those issues with insurance and everything that you did with other County agencies with these agreements. So far, there is no record of any problem with this stuff. The insurance policies are dictated...I think it is one million dollars (\$1,000,000) per aggregate per occurrence; two million dollars (\$2,000,000) for whatever. It is the same insurance that we require for all of our contractors. As far as termination, this is not a contract. We are not paying them anything to do this. This is not a bargain for offer, acceptance, consideration, or contract 101 situation. This is a community effort. They are going to do the best they can with what they got, and then for whatever reason it is not working out on the County's end or the community's end, because it is informal and really meant to be a positive thing, we are not holding everybody to the same stringent requirements, grievance procedures, and arbitration that you would with a County contractor under the procurement code. That is because you are working with the community. You are not going to treat them like RM Towill or Aecom.

Councilmember Yukimura: First of all, if the group is not incorporated, you do not know exactly who is going to be on it and they may be highly responsible people, but in the transfer over time, when you and others are not there anymore, there are issues with the nonprofit group, and we know that there have been. If you look at our community, there are times where the nonprofit groups have for whatever reason changed hands, do not have the same kind of accountability, etcetera, and you have to have those safeguards for the County. All I am asking is for some clarity of language. Written notice shall be given does not, to me, adequately say that the County has the right to terminate when it so desires or the other group. I think you have to prepare for those times where...it is not a reflection on the group that you are connecting with right now, but it is a responsible safeguard that you have to put in there.

Mr. Trask: That segway is actually in my presentation so I can tell you what makes this stewardship agreement unique and why in Wainiha it is really a community project. Can we do that real quick?

Council Chair Rapozo: Well, not real quick because we have to go to lunch, but we are going to have to come back and do it after lunch.

Mr. Trask: I can do it in like five (5) minutes.

Council Chair Rapozo: Still, this is not going to be done by lunch time and we have a public hearing at 1:30 p.m., so it is not like we have flexibility. I just have a question. Is the other Stewardship Agreements that we have had, have we done it with an unincorporated entity?

Mr. Trask: Yes.

Council Chair Rapozo: All of them were done with it?

Mr. Trask: No, the first one was...

Councilmember Yukimura: Kāneiolouma.

Mr. Trask: No, I think Kāneiolouma...

Council Chair Rapozo: They already had theirs?

Mr. Trask: At that time. The only one that was not incorporated at the time, I believe, was Kīlauea Agricultural Park.

Council Chair Rapozo: Who was the sponsor?

Mr. Trask: Mālama Kauaʻi, I think. They stepped up. There was concern at first, because like Councilmember Yukimura said, there are some issues in the nonprofit community, not good or bad, but they are there, but it worked. Really, when we get into the presentation, I believe you will see why this is such a powerful, unique situation to Wainiha and why it is a community thing. As far as the term and agreement section, I understand differences of opinion, but it is clear to me that if either party wishes to terminate the agreement at any time, written notice shall be given to the party. This is a two-party agreement. Later if they want to cancel it, we will just let the other guy know in writing.

Council Chair Rapozo: Okay. I think we should just take our lunch break and then we will come back after. Do you have a question?

Councilmember Yukimura: I just want to say that I am not questioning the community that you are working with now. I have the highest regard. The thing is that in a nonprofit legal structure, sometimes people get control who do not represent the community over time. I do not mean it now, but that is I think as a County signatory to this and you are giving public trust to a community group in terms of managing it. You have to have a safeguard.

Mr. Trask: As the presentation may clear, the *hui* that we are going to deal with is actually the descendants of the Hui Kuaʻāina O Wainiha, where there are Kuehuehu and seventy (70) others, so seventy-one (71) people in total—eighty-nine percent (89%) of who were Native Hawaiian, but some were not and it was a true *hui*, multicultural and multiethnic. They came together and bought fifteen thousand one hundred ten (15,110) acres of Kekaʻōnohi's property, turned it into a whole community incorporated under the laws of the kingdom...

Council Chair Rapozo: Mauna Kea, I am sorry to interrupt because this education and history is going to be vital after lunch, but I know Blake is here. They have to catch a convoy back, so I would really like to give him the opportunity to testify before they have to head back. I apologize for the interruption, Mauna Kea.

BLAKE CONANT: My name is Blake Conant. I am one of the joint stewards making application for the stewardship. A lot of what we have been doing has sort of been dependent upon approval of the Council. With regard to the 501(c)3, being that the Vice President of the Board of Hale Hālāwai, and my wife Katie being the Executive Director, and Mina being a good friend, we asked the board of Hale Hālāwai to umbrella this endeavor for a period of time of which I can then go out and get our own 501(c)3, which is anywhere from six (6) to twelve (12) months, for all the reasons that you are talking about, one is insurance. Currently, we are working with the insurance company. We will not start anything, regardless of what you folks approve, we will not do anything until that insurance is in place; that is a commitment for us. Going forward, the hope is that we will gain our own 501(c)3 and the Wainiha cultural *hui* would stand-alone, and then we would not need the necessary association with Hale Hālāwai. Until we have all of those pieces in place, that is the relationship. Getting back to the families to kind of get further into that, it is an integral part of our plan to have this organization representative of all the families in Wainiha based upon the historical information that Mauna Kea has given us: the Haumeas, the Ham Youngs, and the Tai Hooks; the list goes on and on. They have been contacted and they are the ones that are going to be making up the committee—not the stewards, we will be part of it—but it is that committee that will make the decisions going forward as to how we develop this cultural park. That is the plan. In reference to what we are going to do first and why we need the boundaries is because, as you saw on that map, there is some question about *kuleana* lands that are there. We do not want to create any issues with that. It would be nice if they would like to join the plan and get on the bus, so to speak, but if they do not, they do not. We would like to proceed in developing this cultural park for the people in Wainiha and Hā'ena.

Council Chair Rapozo: Those six (6) lots that you pointed out, are those *kuleana* lots?

Mr. Conant: No, I used *kuleana* lightly, sorry about that.

Mr. Trask: Not all of them.

Council Chair Rapozo: Okay. Any questions? Councilmember Yukimura.

Councilmember Yukimura: Thank you for being here and explaining. I think I am getting a better understanding. You mentioned a plan...is there a plan already or is the plan to develop a plan?

Mr. Conant: The plan is to develop a plan. I have a vision and Palala has a vision and it is a matter of bringing that to the community and say, "Okay, you have an opportunity here to take 'x' amount of acres and develop something that is beneficial for the community." In everybody's closet, there is a bit of cultural knowledge and I think this is an excellent opportunity for some of that to come out. If we can make this park an opportunity for people to bring out their practitioner expertise, etcetera, then I think that is the objective. I do not want to force anything down to them. I want it to bubble up, if you will, and this Stewardship Agreement, I believe, gives the town of Wainiha or the area of Wainiha that opportunity and blend the *ahupua'a* of Wainiha and Hā'ena.

Councilmember Yukimura: Okay. Thank you very much.

Mr. Conant: Sure.

Council Chair Rapozo: Any other questions?

Mr. Trask: In closing, neither of us could say better than that, so if you are comfortable now, we will not object to you voting to approving. We can save ourselves a presentation after lunch.

Council Chair Rapozo: I read the material. The only one thing in there is that it talks about the roundup, which I think you have to fix because that could be illegal shortly.

Mr. Trask: Yes, it is "may" and I do not really want to get into the pesticide issue.

Council Chair Rapozo: If we pass something, I want to make sure that it is not...

Mr. Trask: Of course.

Council Chair Rapozo: Anyone else have any issues? Anybody in the audience wishing to testify on this matter? If not, I will call the meeting back to order. Further discussion? Unless you want to come back after lunch and do it, I am prepared. I really appreciate the Administration's move towards stewardship agreements. Councilmember Chock.

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Chock: Real quick, Mr. Chair. I just want to recognize that there is also a huge safety consideration in moving forward on this that I think needs to be considered. There has been over thirty (30) volunteers that have been clearing a lot of the watershed, so to move on this now is imperative, as requested.

Council Chair Rapozo: Anyone else? If not, the motion is to approve.

The motion to approve C 2108-215 was then put, and carried by a vote of 7\*:0:0 (*\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.*).

Council Chair Rapozo: Motion carried. Thank you very much. With that, we will break for lunch. We will be back at 1:35 p.m.

There being no objections, the meeting recessed at 12:33 p.m.

The meeting reconvened at 2:06 p.m., and proceeded as follows:



*(Councilmember Chock was excused.)*

*(Councilmember Kagawa was noted as present.)*

Council Chair Rapozo: Welcome back. We are on the Legal Document.

LEGAL DOCUMENT:

C 2018-216 Communication (09/14/2018) from the Acting County Engineer, recommending Council approval of the following Right-of-Entry Agreements to reconstruct and repair portions of Kahiliholo Road, a culvert and associated drainage improvements that were damaged by the heavy rains and flooding that occurred during the April 2018 rain event:

- Right-of-Entry Agreement by and between the County of Kaua'i and Erik Brandsen, Trustee of the Erik Brandsen Trust, Tax Map Key (TMK) No. (4) 5-2-017-015:0002; and
- Right-of-Entry Agreement by and between the County of Kaua'i and Wai Koa Guava Plantation, LLC, TMK No. (4) 5-2-017-026:0020

Councilmember Kaneshiro moved to approve C 2018-216, seconded by Councilmember Brun.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no further testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve C 2018-216 was then put, and carried by a vote of 6:0:1  
*(Councilmember Chock was excused).*

Council Chair Rapozo: Next item, please.

COMMITTEE REPORTS:

PUBLIC WORKS / PARKS & RECREATION COMMITTEE:

A report (No. CR-PWPR 2018-11) submitted by the Public Works / Parks & Recreation Committee, recommending that the following be Approved on second and final reading:

"Bill No. 2717 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 13 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE ELECTRICAL CODE,"

Councilmember Kagawa moved for approval of the report, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve the report was then put, and carried by a vote of 6:0:1 (*Councilmember Chock was excused*).

#### PLANNING COMMITTEE:

A report (No. CR-PL 2018-09) submitted by the Planning Committee, recommending that the following be Received for the Record:

“PL 2018-04 Communication (09/11/2018) from Council Chair Rapozo, requesting the presence of Tyler Greene, Managing Partner, GreeneWaters and the County’s Planning Director, to provide a status report regarding rebuilding the Coco Palms Hotel,”

Councilmember Kagawa moved for approval of the report, seconded by Councilmember Brun.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve the report was then put, and carried by a vote of 6:0:1 (*Councilmember Chock was excused*).

#### BUDGET & FINANCE COMMITTEE:

A report (No. CR-BF 2018-31) submitted by the Budget & Finance Committee, recommending that the following be Approved on second and final reading:

“Bill No. 2718 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 23, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO TAXICABS,”

Councilmember Kagawa moved for approval of the report, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve the report was then put, and carried by a vote of 6:0:1 (*Councilmember Chock was excused*).

A report (No. CR-BF 2018-32) submitted by the Budget & Finance Committee, recommending that the following be Received for the Record:

“BF 2018-15 Communication (08/28/2018) from Committee Chair Kaneshiro, requesting the presence of Scott K. Teruya, Administrator, Real Property Assessment Division, Department of Finance, County of Maui, to provide a briefing on Senate Bill No. 2922, S.D. 1, H.D. 1 from the 2018 Legislative Session, regarding a proposed Constitutional amendment to allow a surcharge on real property taxes to fund public education, and its implications for the counties,”

Councilmember Kagawa moved for approval of the report, seconded by Councilmember Yukimura.

Council Chair Rapozo: Is there any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

The motion to approve the report was then put, and carried by a vote of 6:0:1 (*Councilmember Chock was excused*).

Council Chair Rapozo: Next item, please.

#### RESOLUTIONS:

Resolution No. 2018-31 – RESOLUTION ESTABLISHING MAXIMUM SPEED LIMITS OF TWENTY-FIVE (25 MPH), THIRTY-FIVE (35 MPH), FORTY (40 MPH), AND FORTY-FIVE MILES PER HOUR (45 MPH) ALONG ALA KINOIKI, KŌLOA DISTRICT, COUNTY OF KAUAI, STATE OF HAWAII: Councilmember Kagawa moved for adoption of Resolution No. 2018-31, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion or public testimony?

Councilmember Yukimura: Can we get the Department of Public Works up?

Council Chair Rapozo: I will suspend the rules with no objection.

There being no objections, the rules were suspended.

Councilmember Kaneshiro moved to amend Resolution No. 2018-31 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1, seconded by Councilmember Kagawa.

Council Chair Rapozo: Okay. Any discussion on the amendment? I will call the meeting back to order. Can you explain the amendment?

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Kaneshiro: The amendment came from the Department of Public Works.

Council Chair Rapozo: Okay. The rules are suspended.

There being no objections, the rules were suspended.

MICHAEL MOULE, Chief of Engineering: Good afternoon, Council Chair and Councilmembers. My name is Michael Moule, Chief of Engineering Division in the Department of Public Works. Per our discussion two (2) weeks ago and your follow-up communication to our department, we are recommending the amendment that you actually wrote back to us in your communication to us, but it was the same thing we were also considering to eliminate a section of forty miles per hour (40 MPH) that was in the vicinity of Po'ipū Aina Place. We relooked at our engineering evaluation of the area and we have written a statement saying sort of the details of that, which I will not go into a lot of detail here today, but we found that there was one element that has to do with a dip in the road, sag or "vertical curve," we call it, which the standards are based on the headlight sight distance. Technically, it was below the threshold for forty-five (45), so it would have been forty miles per hour (40 MPH) recommended for that particular item, but because it is only an issue at night, it is a very short vertical curve, so it may not even matter, so we do not feel that is going to be an issue that we think would be a problem to have a forty-five mile per hour (45 MPH) speed limit. So we are recommending the continuous forty-five miles per hour (45 MPH) speed limit from roughly just south of Weliweli Road to Po'ipū Road or near Po'ipū Road, kind of close to one (1) mile long or more actually.

Council Chair Rapozo: Thank you very much. Any questions?  
Councilmember Yukimura.

Councilmember Yukimura: Thank you for the reconsideration. I think that is well-taken. I think this testimony also was sent to you from Ms. Makaneole. She says there is about one hundred (100) people that walk or hike along the *makai* section of the road and she does not think it is compatible with forty-five miles per hour (45 MPH). Did you see that testimony?

Mr. Moule: I did see that testimony. As we found in our current count data, we have most of the people driving forty-five miles per hour (45 MPH) to fifty miles per hour (50 MPH) in the area anyway. While there are people that walk and bike that road every day, it is not a significant volume like you might see on a road where you have sidewalks in a village or town here. We do not believe that raising this from forty (40) to forty-five (45) is going to actually change this travel

speed in a significant way for most drivers, so I do not think it is going to affect how that is. I live on the south side and I drive, walk, bike, and jog that road regularly and we feel it is compatible. It has a wide shoulder, a six-foot shoulder, probably the only County road that has six-foot shoulders at this time. That is something that we are trying to have on other roads as well. That was one road that was built with wide shoulders, twelve-foot lanes plus six-foot shoulders, the widest of the rural County roads that we have maintained really and feel that those activities take place on the shoulder and it is reasonable to raise the speed limit. Again, we do not think it is going to change the speeds that people are actually traveling in a significant way.

Councilmember Yukimura: So the car lanes are twelve-feet?

Mr. Moule: Yes.

Councilmember Yukimura: Are you thinking differently that there is not as many as one hundred (100) people?

Mr. Moule: We do not have counts. I could not tell you exactly how many.

Councilmember Yukimura: You do not have counts from your study?

Mr. Moule: We do not have counts of pedestrian or bicycle traffic because that is something that you have to do manually. It does not catch bike traffic. The counters that we use in that area would not catch bike traffic on the shoulder. The counter sits in the middle of the lane and it would not catch anybody on the shoulder. We did just recently get a counting machine that would do bike and pedestrian traffic, but we have not used that or deployed that in this location. You folks approved the donation of that device several months ago, but we have not had counts in this case, so we do not know what they are. They could be that high. I am on the road fairly frequently. I do not think they are quite that high, but there is probably at least half of that, fifty (50) to one hundred (100) on a good weather kind of day. It could be less, but we would have to count to know for sure.

Councilmember Yukimura: Okay. You do not think that will increase the speed...that putting it in forty-five (45) miles will increase the speed, but what it will do is will not be the basis of so many tickets.

Mr. Moule: It will result in more consistent speeds out there. What you have today on a road like this is you have a situation where there are a handful of drivers who doggedly obey the speed limits and pay very close attention to their speed. It is not many on any road, and this road included, because I do drive the road a lot and see other drivers' behavior. The people that are actually going exactly forty (40) and doggedly obeying the speed limit may start doing forty-five (45), but that is not the majority of the drivers. Our data shows that the...I want to quote it exactly here...that in the area that we are talking about specifically, our data shows that the average speed is forty-four miles per hour (44 MPH) now, so about half of traffic is going faster than that and half is slower...

Councilmember Yukimura: That is the median speed then.

Mr. Moule: Average and median on this kind of distribution would be roughly the same.

Councilmember Yukimura: Okay.

Mr. Moule: Rounded, it would be forty-four (44). The eighty-fifth percentile speed, which is the speed at which fifteen percent (15%) are going faster, is sort of the reasonable person's test is forty-nine (49) to fifty (50) miles per hour in this area. So the people that are already driving forty-five (45) to fifty (50) miles per hour are probably going to continue driving that speed. They are driving the road on how the road feels and not how the signs are written and this is what we found. The differences that we found in the speed coincided with that—further north, north of Weliweli Road, because there is the activity of that road and the curve up there that is a little sharper, people are going slower and there is a different character in that area. That bares out what we see elsewhere, which is many drivers, if not most drivers, are driving how the road feels and just drives as opposed to following the speed limit. We can do follow-up counts to see if it changes the speed, but in this case with such a minor increase in this area, I do not think we will find a significant change in these speeds. If we found a mile or two per hour on the average speed or eighty-fifth percentile speed, I would be surprised if it was more than that.

Councilmember Yukimura: So you can do follow-up surveys?

Mr. Moule: We could, yes.

Councilmember Yukimura: Will you do that and report back to us?

Mr. Moule: Yes, we can do that. It might take some time, but we can do that.

Councilmember Yukimura: It would be interesting to know. Thank you.

Mr. Moule: We actually wanted to do that on Ala Kalanikaumaka, too, but we have not yet done that. We can look to do that.

Councilmember Yukimura: Does Ala Kalanikaumaka have six-foot shoulders, too?

Mr. Moule: It does not, which is actually one of the reasons why when we looked at that speed limit, we did not raise it above forty (40). We left that at thirty (30) and forty (40). It had more to do with the curvature of the road than anything else, but that one does not have the wide shoulder. It does have a sidewalk though.

Councilmember Yukimura: For part of it?

Mr. Moule: It goes the whole way.

Councilmember Yukimura: Does it?

Mr. Moule: It is just overgrown in some areas.

Councilmember Yukimura: Okay. Thank you.

Council Chair Rapozo: Any other questions for the Administration?  
If not, thank you very much.

Mr. Moule: You are welcome. Thank you.

Council Chair Rapozo: I will call the meeting back to order. Further discussion? Thank you for following-up. I know that was Councilmember Brun's concern last week, so thank you for the changes.

Councilmember Yukimura: Could we do a staff memorandum about the follow-up?

Council Chair Rapozo: Okay.

Councilmember Yukimura: I would appreciate that.

Council Chair Rapozo: If there is no further discussion, the motion is to approve. Roll call.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion to amend Resolution No. 2018-31 as circulated, and as shown in the Floor Amendment, which is attached hereto as Attachment 1 was then put, and carried by a vote of 6:0:1 (*Councilmember Chock was excused*).

The motion for adoption of Resolution No. 2018-31, as amended to Resolution No. 2018-31, Draft 1, was then put and carried by the following vote:

FOR ADOPTION:	Brun, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

Council Chair Rapozo: Thank you. Next item, please.

Resolution No. 2018-33 – RESOLUTION AUTHORIZING THE MAYOR OR THE DIRECTOR OF FINANCE OF THE COUNTY OF KAUAI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH FOR A LOAN FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND FOR THE WAILUA SEWAGE PUMP STATION (SPS) NO. 1 REHABILITATION, PROJECT NO. C150055-11: Councilmember Yukimura moved for adoption of Resolution No. 2018-33, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion or public testimony?

Councilmember Yukimura: Can we have Jason come up?

Council Chair Rapozo: I will suspend the rules.

There being no objections, the rules were suspended.

Councilmember Yukimura: Can you explain what this money will be used for? We know that this is the pump that has been of great problem in terms of smell, right?

Mr. Kagimoto: For the record, Jason Kagimoto, Chief of Wastewater. For Wailua SPS No. 1, that is a pump station that is on the facility or the site as the Wailua Treatment Plant is, so it is next to Lydgate Park. It is a pump station that although it is located on the plant, it actually receives outside flow, so it receives flows from the neighboring condominiums, the correctional facility, and Wailua Golf Course.

Councilmember Yukimura: And also from all of Kapa'a Town?

Mr. Kagimoto: No, that flow comes from the Coco Palms pump station. It stays on the highway and it comes down Leho Drive.

Councilmember Yukimura: Okay.

Mr. Kagimoto: So this is picking up stuff south of the plant.

Councilmember Yukimura: Yes. What are you doing with the money?

Mr. Kagimoto: We are going to use it to rehabilitate that facility. It was probably installed thirty (30) to forty (40) years ago. It consists of a metal can that has an elevator within it that the operators will go down. There are two (2) pumps below that, that pump out of the underground well or a tank. Over the years, the can itself is being corroded in proximity to the ocean and just age. It has just become a maintenance headache, so the plan is that we are kind of getting rid of all of our underground can stations and we are converting them into submersible stations. So essentially, we have an underground can so that the pumps can be mounted below ground in a dry area, but what we are trying to do is we are moving towards having pumps that are meant to be in water, so there are submersible pumps so they sit right in the storage tank or the wet well and the controls are above ground so you are less prone to issues of if water got into the can or those kinds of things that would short out the pumps and motors.

Councilmember Yukimura: So it would be much easier to maintain and troubleshoot?

Mr. Kagimoto: Yes.



Councilmember Yukimura: That is two million seven hundred thousand dollars (\$2,700,000) and will we pay that back?

Mr. Kagimoto: Yes, so we are looking to take out a State Revolving Fund (RSF) loan to fund the construction for that.

Councilmember Yukimura: Okay. It is a very old pump, probably as old as the station itself.

Mr. Kagimoto: Most likely. I can look at the drawings, but if I had to guess, it is probably about there, which is like thirty (30) to forty (40) years old. Actually, maybe even older, more like fifty (50) actually.

Councilmember Yukimura: That is a lot of money for a pump.

Mr. Kagimoto: It is actually a combination of a bunch of things. There are two (2) pumps, we have one (1) that runs at any given time and then we have another one for back up or redundancy. We are moving that, so where the underground concrete structure, it has a lining on it, but we are going to replace the lining to make sure that it is protecting the concrete layer so that the concrete on the ground does not corrode given the acidic conditions of the sewer. We are going to be adding Supervisory Control and Data Acquisition (SCADA) system to it so that it ties into our existing SCADA system so that will allow our operators to remotely be able to monitor our system. The whole system itself will be upgraded I guess.

Councilmember Yukimura: Sounds good. Thank you.

Council Chair Rapozo: Thank you. There is a plan to move that facility across the highway, correct?

Mr. Kagimoto: Well, I guess there have been discussions...I am not exactly sure of the timing or how...

Council Chair Rapozo: But we have to or can we stay there? I thought we have to move.

Mr. Kagimoto: From what I understand, it is in a flood area, so I guess that would be the primary reason.

Council Chair Rapozo: So we have to move. I am just wondering with these improvements here, are we able to take these improvements and move it with the station?

Mr. Kagimoto: The main thing that we would not be able to move is the existing underground tank, which is already there. We are not doing anything other than relining, but the equipment and stuff like that, we should be able to use as much of it as we can, which is basically the SCADA system and the pumps.

Council Chair Rapozo: Right. Thank you. Councilmember Yukimura.

Councilmember Yukimura: But I do not think the decision has been made to move it. We have not seen any feasibility study, any cost, or any analysis that has been approved by the Mayor or the Council to say we are moving.

Council Chair Rapozo: It is not so much the decision of the Mayor or the Council, it is a decision of the Feds that are saying that we have to move that facility.

Mr. Tabata: Lyle Tabata, Acting County Engineer. We have not been given any notice to move the plant. We are just using prudent forward thinking to look at options to relocate.

Council Chair Rapozo: Lyle, do you think it is a wise idea to leave that station down there in the flood zone?

Mr. Tabata: The whole plant?

Council Chair Rapozo: Yes.

Mr. Tabata: In the long-term, no.

Council Chair Rapozo: That is my point.

Mr. Tabata: But for the short-term, that is all we have and there are many challenges with relocation.

Council Chair Rapozo: Yes and that is a whole other discussion. I was just curious. I know we are spending the money, but I am assuming that whatever is in this would be...

Mr. Tabata: The long-term vision is to relocate the plant.

Council Chair Rapozo: Thank you.

Mr. Kagimoto: You are just making sure that we are not spending all of this money that is just going to be wasted.

Council Chair Rapozo: Correct. I understand the concrete and all of that is going to stay, but these things are here...the components and the electronics...the SCADA or whatever can be used.

Mr. Kagimoto: Yes.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: So do we have a sewage master or a wastewater master plan?

Mr. Tabata: So the facility has a facility plan.

Councilmember Yukimura: Okay, but where does our long-range planning come into play?

Council Chair Rapozo: We can post that for another item. I think that is beyond the scope of this one. This is just for this little pump station that I would like to finish up today. I was just curious if this would be able to relocate as well. We can definitely have a discussion on the master plan for the wastewater system. Councilmember Kagawa.

Councilmember Kagawa: I have had, as Public Works / Parks & Recreation Committee Chair, short discussions with Jason and there is a lot that he wants to do, but it comes down to money and funding. Right now, with the County's current financial situation, it is unfortunate that some of the initiatives that he has been trying to push has not succeeded because of budget constraints so I think it is great that he is thinking that way, but some things, like you just recognized, need immediately fixes to be done. We are just waiting for a disaster if not. We have to do it. Would it be better to do it with long-range planning first? Yes, but we are not ready, we are not there. That is the point we are at with these things.

Council Chair Rapozo: Any other questions? Seeing none, thank you very much. You might as well stay right there because you have another item coming up.

Mr. Kagimoto: Quickly to that, just so you folks are wondering why Don is sitting here next to me, Don has filled my old position, so he is the engineer within the Wastewater Division. We are ready and able to hit the ground running and keep making progress at our Wastewater facility.

Council Chair Rapozo: So where did you go?

Mr. Kagimoto: I filled Ed's old position, so I am still in the division, just him and me.

Council Chair Rapozo: Perfect, right on. I will call the meeting back to order. The motion is to approve.

There being no objections, the meeting was called back to order, and proceeded as follows:

The motion for adoption of Resolution No. 2018-33 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

Council Chair Rapozo: Next item, please.

Resolution No. 2018-34 – RESOLUTION AUTHORIZING THE MAYOR OR THE DIRECTOR OF FINANCE OF THE COUNTY OF KAUAI TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE STATE OF HAWAII, DEPARTMENT OF HEALTH FOR A LOAN FROM THE STATE WATER POLLUTION CONTROL REVOLVING FUND FOR THE HANAMĀ‘ULU AND KAPAIA SEWER PUMP STATIONS’ (SPS) RENOVATIONS, PROJECT NO. C150059-23: Councilmember Kagawa moved for adoption of Resolution No. 2018-34, seconded by Councilmember Kaneshiro.

Council Chair Rapozo: I will suspend the rules. Councilmember Yukimura.

There being no objections, the rules were suspended.

Councilmember Yukimura: This is the joint project that Grove Farm and the County are doing, partly for the D.R. Horton development and hopefully a future neighborhood center in that whole area, right?

Mr. Kagimoto: Yes.

Councilmember Yukimura: It is a repair and an upgrade?

Mr. Kagimoto: Yes, so essentially what we entered into is a 50/50 cost-share agreement with Grove Farm. I guess the basis for that was that our two (2) pump stations needed to be upgraded in terms of capacity based on the developments that is at Hanamā‘ulu triangle, D.R. Horton’s Kohea Loa subdivision. I guess acknowledging that we were not too far away from having to rehabilitate our facilities ourselves and we just based on age and state of equipment that we entered into this 50/50 cost-share. The County is bidding out the work. We are going to control the construction and all of that. At the end of the project, the 50/50 cost-share is the predominant 50/50 on the Grove Farm side is that contribution plan.

Councilmember Yukimura: Okay. Four million dollars (\$4,000,000)—is that what it is?

Mr. Kagimoto: Yes.

Councilmember Yukimura: Is covering the County’s share?

Mr. Kagimoto: Is covering the whole project.

Councilmember Yukimura: Grove Farm is paying for their share through the land?

Mr. Kagimoto: Yes, after the fact. So essentially, to make the contractual side a bit clean is that we will handle the construction, see it through ourselves, with the coordination with Grove Farm. But at the end of the day, if the four million dollars (\$4,000,000) covers everything, then at the end of it they will owe us the two million dollars (\$2,000,000) or their half of it so then that is where that land appraisal and all of that stuff comes into play. The intent of this is actually...it

is not just the construction, the four million dollars (\$4,000,000) is also to cover construction management. Our staffing in the office who are engineers is Don and myself, so we do not have the time and the ability to be out there and overseeing the construction so the loan amount for this and the Wailua SPS No. 1 is to cover construction and the construction management part and also potential change orders if there may be any.

Council Chair Rapozo: Okay. Any other questions? Seeing none, I will call the meeting back to order. Any further discussion?

There being no objections, the meeting was called back to order, and proceeded as follows:

Councilmember Yukimura: I am just wondering whether Councilmember Kaneshiro has to recuse himself.

Council Chair Rapozo: That would be his call. I do not see a direct conflict. Are you getting some of those four million dollars (\$4,000,000)?

Councilmember Kaneshiro: No.

Council Chair Rapozo: That is what I thought.

Councilmember Yukimura: They have to pay two million dollars (\$2,000,000), right?

Council Chair Rapozo: That is your call.

Councilmember Kaneshiro: I will stay on the vote, I do not think I have a conflict on this.

Council Chair Rapozo: The motion is to approve. Roll call.

The motion for adoption of Resolution No. 2018-34 was then put, and carried by the following vote:

FOR ADOPTION:	Brun, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 6,
AGAINST ADOPTION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	Chock	TOTAL – 1,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Six (6) ayes, one (1) excused.

Council Chair Rapozo: Next item, please.

#### BILLS FOR SECOND READING:

Bill No. 2717 – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 13 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE ELECTRICAL CODE: Councilmember Kawakami moved to approve Bill No. 2717, on

second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Kagawa.

Council Chair Rapozo: Any discussion or public testimony?  
Councilmember Kagawa.

Councilmember Kagawa: Yes, it has been a long time. I would like to thank Christiane for staying on it, along with Doug. He is seen as a leader on the State Building Council. The other counties tend to just wait until the State one kicks in. Doug brings it before this Council and I think that is an asset for us that this body gets to have their say and get community input. I would like to thank everyone involved for getting the electrical code up-to-date and having the communication to our local contractors and what have you.

Council Chair Rapozo: Thank you. Councilmember Yukimura.

Councilmember Yukimura: I am really glad that we are able to pass this bill. It has been a long time, but I think there is clear consensus and it is going to be better for everyone. Thank you to all of you who have had a role in it.

Council Chair Rapozo: Any other discussion? Seeing none, roll call.

*(Councilmember Chock was noted as present.)*

The motion to approve Bill No. 2717, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Next item, please.

Bill No. 2718 – A BILL FOR AN ORDINANCE AMENDING CHAPTER 23, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO TAXICABS: Councilmember Kagawa moved to approve Bill No. 2718, on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Councilmember Brun.

Council Chair Rapozo: Thank you. Any discussion or public testimony? Councilmember Kagawa.

Councilmember Kagawa: I want to thank all of those involved, like you, Chair and Councilmember Yukimura, and those that have worked with the taxicab industry to try and settle some of their concerns. We have a task of trying to balance taxicabs along with Uber and Lyft and it is good of this Council to be attentive and try

and level the playing field for everyone and try and address a legitimate concern so we have reasonable rates out there for visitors and residents. Thank you, Chair.

Council Chair Rapozo: Thank you. Anyone else? Seeing none, the motion is to approve. Roll call.

The motion to approve Bill No. 2718, on second and final reading, and that it be transmitted to the Mayor for his approval was then put, and carried by the following vote:

FOR APPROVAL:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST APPROVAL:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: Thank you. May you please read ES-966?

ES-966 Pursuant to Hawai'i Revised Statutes (HRS) Sections 92-4 and 92-5(a)(4), and Kauai County Charter Section 3.07(E), the Office of the County Attorney requests an Executive Session with the Council to provide the Council with a briefing on Special Counsel's continued services to represent the interests of the County as Bond Counsel for the issuance of General Obligation Bonds (2017 Series) for the County, and related matters. The briefing and consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Council and the County as they relate to this agenda item.

Councilmember Kagawa moved to convene into Executive Session for ES-966 and ES-967, seconded by Councilmember Brun.

Council Chair Rapozo: Any discussion or public testimony?

There being no objections, the rules were suspended to take public testimony.

There being no one present to provide testimony, the meeting was called back to order, and proceeded as follows:

Council Chair Rapozo: Seeing none, roll call.

The motion to convene into Executive Session for ES-966 and ES-967 was then put, and carried by the following vote:

FOR EXECUTIVE SESSION:	Brun, Chock, Kagawa, Kaneshiro, Kawakami, Yukimura, Rapozo	TOTAL – 7,
AGAINST EXECUTIVE SESSION:	None	TOTAL – 0,
EXCUSED & NOT VOTING:	None	TOTAL – 0,
RECUSED & NOT VOTING:	None	TOTAL – 0.

Ms. Fountain-Tanigawa: Seven (7) ayes.

Council Chair Rapozo: With that, we have one more item, C 2018-214, which we will do when we come out of Executive Session. We will take a recess and reconvene here at 3:00 p.m.

There being no objections, the meeting recessed at 2:36 p.m.

The meeting reconvened at 3:13 p.m., and proceeded as follows:

*(Councilmember Kagawa was noted as not present.)*

Council Chair Rapozo: We are back. Can you read C 2018-214?

C 2018-214 Communication (09/12/2018) from the County Attorney, requesting authorization to expend additional funds up to \$10,000.00 for Special Counsel's continued representation of the County's interests as Bond Counsel for the issuance of General Obligation Bonds (2017 Series), and related matters: Councilmember Kaneshiro moved to receive C 2018-214 for the record, seconded by Councilmember Yukimura.

Council Chair Rapozo: Any discussion? There is no one present in the audience.

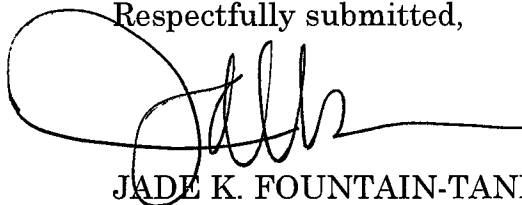
The motion to receive C 2018-214 for the record was then put, and carried by a vote of 7\*:0:0 (*\*Pursuant to Rule No. 5(b) of the Rules of the Council of the County of Kaua'i, Councilmember Kagawa was noted as silent (not present), but shall be recorded as an affirmative vote for the motion.*).

Council Chair Rapozo: Motion carried. With no further business, this meeting is adjourned.

ADJOURNMENT.

There being no further business, the Council Meeting adjourned at 3:14 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jade K. Fountain-Tanigawa', with a large loop at the beginning and a horizontal line extending to the right.

JADE K. FOUNTAIN-TANIGAWA  
County Clerk

:ct



(September 26, 2018)

FLOOR AMENDMENT

Resolution No. 2018-31, RESOLUTION ESTABLISHING MAXIMUM SPEED LIMITS OF TWENTY-FIVE (25 MPH), THIRTY-FIVE (35 MPH), FORTY (40 MPH), AND FORTY-FIVE MILES PER HOUR (45 MPH) ALONG ALA KINOIKI, KŌLOA DISTRICT, COUNTY OF KAUAI, STATE OF HAWAII

Introduced by: ARRYL KANESHIRO

1. Amend Resolution No. 2018-31 by amending proposed SECTION 1 to read as follows:

“SECTION 1. The maximum speed limits in the southbound direction are hereby amended as follows and as shown on the map designated as Exhibit “A,” attached hereto and incorporated herein by reference:

- (a) On Ala Kinoiki, from its intersection with Maluhia Road to a point 500 feet north of its intersection with Waila‘au Road is hereby established to be 35 miles per hour.
- (b) On Ala Kinoiki, from a point 500 feet north of its intersection with Waila‘au Road to a point 300 feet south of the same intersection is hereby established to be 25 miles per hour.
- (c) On Ala Kinoiki, from a point 300 feet south of its intersection with Waila‘au Road to a point 500 feet south of its intersection with Weliweli Road is hereby established to be 40 miles per hour.
- (d) On Ala Kinoiki, from a point 500 feet south of its intersection with Weliweli Road to a point [500 feet north of its intersection with Po‘ipū ‘Āina Place is hereby established to be 45 miles per hour.
- (e) On Ala Kinoiki, from a point 500 feet north of its intersection with Po‘ipū ‘Āina Place to a point 1,400 feet south of the same intersection is hereby established to be 40 miles per hour.
- (f) On Ala Kinoiki, from a point 1,400 feet south of its intersection with Po‘ipū ‘Āina Place to a point] 800 feet north of its intersection with Po‘ipū Road is hereby established to be 45 miles per hour.
- [(g)] (e) On Ala Kinoiki, from a point 800 feet north of its intersection with Po‘ipū Road to its intersection with Po‘ipū Road is hereby established to be 25 miles per hour.”

2. Amend Resolution No. 2018-31 by amending proposed SECTION 2 to read as follows:

“SECTION 2. The maximum speed limits in the northbound direction are hereby amended as follows and as shown on the map designated as Exhibit “A,” attached hereto and incorporated herein by reference:

- (a) On Ala Kinoiki, from its intersection with Po‘ipū Road to a point [1,700 feet south its intersection with Po‘ipū ‘Āina Place is hereby established to be 45 miles per hour.
- (b) On Ala Kinoiki, from a point 1,700 feet south of its intersection with Po‘ipū ‘Āina Place to a point 500 feet north of the same intersection is hereby established to be 40 miles per hour.
- (c) On Ala Kinoiki from a point 500 feet north of its intersection with Po‘ipū ‘Āina Place to a point] 500 feet south of its intersection with Weliweli Road is hereby established to be 45 miles per hour.
- [(d)] (b) On Ala Kinoiki, from a point 500 feet south of its intersection with Weliweli Road to a point 600 feet south of its intersection with Waila‘au Road is hereby established to be 40 miles per hour.
- [(e)] (c) On Ala Kinoiki, from a point 600 feet south of its intersection with Waila‘au Road to a point 300 feet north of the same intersection is hereby established to be 25 miles per hour.
- [(f)] (d) On Ala Kinoiki, from a point 300 feet north of its intersection with Waila‘au Road to its intersection with Maluhia Road is hereby established to be 35 miles per hour.”

3. Amend Resolution No. 2018-31 by amending Exhibit “A” as attached.

(Material to be deleted is bracketed. New material to be added is underscored. All material is new.)

V:\AMENDMENTS\2018\09-26-2018 Reso 2018-31 Ala Kinoiki Speed Limits  
JA\_dmc.doc